

**SENATE JOURNAL
58TH LEGISLATURE
ADDENDUM**

Helena, Montana
2003

Senate Chambers
State Capitol

REPORTS OF STANDING COMMITTEES

BILLS REPORT

Examined by the sponsor and found to be correct: **SJR 13, SJR 31.**

Signed by the President at 9:00 a.m., April 24, 2003: **SJR 13, SJR 31.**

Signed by the Secretary of the Senate at 10:00 a.m., April 24, 2003: **SJR 13, SJR 31.**

Signed by the Speaker at 10:05 a.m., April 24, 2003: **SJR 13, SJR 31.**

Delivered to the Secretary of State at 9:46 a.m., April 28, 2003: **SB 46, SJR 13, SJR 31.**

MESSAGES FROM THE GOVERNOR

April 26, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 138** sponsored by Senator Cobb, **Senate Bill 320** sponsored by Senator Tester, **Senate Bill 384** sponsored by Senator Mangan et al., **Senate Bill 399** sponsored by Senator Bohlinger et al., **Senate Bill 464** sponsored by Senator Keenan, and **Senate Bill 478** sponsored by Senator Story et al. on April 26, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Free Conference Committee Report No.1 adopted:

4/26/2003

HB 2, introduced by Lewis

HB 13, introduced by Lewis

HB 247, introduced by Harris

SB 424, introduced by Jent

SB 485, introduced by B. Ryan

Governor's amendments to Senate bill **concurred in** and returned to the Senate:

4/26/2003

SB 484, introduced by Mangan

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Senate amendments to House bill concurred in:

4/30/2003

HB 424, introduced by Jent

REPORTS OF STANDING COMMITTEES

BILL REPORT

Examined by the sponsor and found to be correct: **SJR 29, SJR 32, SR 11.**

Signed by the President at 4:30 a.m., April 26, 2003: **SJR 29, SJR 32.**

Signed by the President at 4:30 a.m., April 30, 2003: **SR 11.**

Signed by the Secretary of the Senate at 9:30 a.m., April 28, 2003: **SJR 29, SJR 32, SR 11.**

Signed by the Speaker at 10:00 a.m., April 28, 2003: **SJR 29, SJR 32.**

Delivered to the Secretary of State at 10:00 a.m., April 29, 2003: **SJR 29, SJR 32, SR 11.**

Delivered to the Governor for approval at 9:30 a.m., April 29, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492.**

Delivered to the Governor for approval at 9:30 a.m., April 30, 2003: **SB 130, SB 326, SB 362, SB 406, SB 407, SB 424, SB 473, SB 490.**

Correctly enrolled: **SB 130, SB 326, SB 406, SB 407, SB 424, SB 473, SB 490.**

4/29/2003

Correctly enrolled: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 423, SB 461, SB 484, SB 485, SB 487, SB 493.**

4/30/2003

MESSAGES FROM THE GOVERNOR

April 29, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 112** sponsored by Senator McCarthy, **Senate Bill 414** sponsored by Senator Pease et al., **Senate Bill 442** sponsored by Senator Stonington et al., **Senate Bill 446** sponsored by Senator Barkus et al., **Senate Bill 489** sponsored by Senator Elliott et al., and **Senate Bill 491** sponsored by Senator Stonington on April 29, 2003.

Sincerely,

JUDY MARTZ
Governor

April 30, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

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Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 101** sponsored by Senator Mahlum, **Senate Bill 325** sponsored by Senator McGee, **Senate Bill 408** sponsored by Senator Nelson, and **Senate Bill 429** sponsored by Senator Esp et al. on April 30, 2003.

Sincerely,

JUDY MARTZ
Governor

May 1, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 406** sponsored by Senator McGee, **Senate Bill 424** sponsored by Senator Nelson, and **Senate Bill 473** sponsored by Senator Elliott et al. on May 1, 2003.

Sincerely,

JUDY MARTZ
Governor

REPORTS OF STANDING COMMITTEES

BILL REPORT

Examined by the sponsor and found to be correct: **SB 101, SB 126, SB 130, SB 304, SB 325, SB 326, SB 362, SB 375, SB 406, SB 407, SB 408, SB 424, SB 429, SB 473, SB 490, SB 492, SJR 13, SJR 29, SJR 31, SJR 32, SR 11.**

Signed by the President at 9:00 a.m., April 24, 2003: **SJR 13.**

Signed by the Secretary of the Senate at 10:00 a.m., April 24, 2003: **SJR 13.**

Signed by the Speaker at 10:05 a.m., April 24, 2003: **SJR 13.**

Delivered to the Secretary of State at 9:46 a.m., April 28, 2003: **SJR 13.**

Signed by the President at 5:00 p.m., April 24, 2003: **SJR 31.**

Signed by the Secretary of the Senate at 7:15 p.m., April 24, 2003: **SJR 31.**

Signed by the Speaker at 8:15 a.m., April 25, 2003: **SJR 31.**

Delivered to the Secretary of State at 9:46 a.m., April 28, 2003: **SJR 31.**

Signed by the President at 4:30 p.m., April 26, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492, SJR 29, SJR 32, SR 11.**

Signed by the Secretary of the Senate at 9:30 a.m., April 28, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492, SJR 29, SJR 32, SR 11.**

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Signed by the Speaker at 10:00 a.m., April 28, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492, SJR 29, SJR 32.**

Delivered to the Governor for approval at 9:30 a.m., April 29, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492.**

Delivered to the Secretary of State at 10:00 a.m., April 29, 2003: **SJR 29, SJR 32, SR 11.**

Signed by the President at 2:00 p.m., April 29, 2003: **SB 407, SB 424.**

Signed by the Secretary of the Senate at 2:30 p.m., April 29, 2003: **SB 407, SB 424.**

Signed by the Speaker at 3:25 p.m., April 29, 2003: **SB 407, SB 424.**

Delivered to the Governor for approval at 9:30 a.m., April 30, 2003: **SB 407, SB 424.**

Signed by the President at 2:30 p.m., April 29, 2003: **SB 326, SB 362.**

Signed by the Secretary of the Senate at 2:45 p.m., April 29, 2003: **SB 326, SB 362.**

Signed by the Speaker at 3:25 p.m., April 29, 2003: **SB 326, SB 362.**

Delivered to the Governor for approval at 9:30 a.m., April 30, 2003: **SB 326, SB 362.**

Signed by the President at 3:00 p.m., April 29, 2003: **SB 130, SB 406, SB 473, SB 490.**

Signed by the Secretary of the Senate at 2:45 p.m., April 29, 2003: **SB 130, SB 406, SB 473, SB 490.**

Signed by the Speaker at 3:25 p.m., April 29, 2003: **SB 130, SB 406, SB 473, SB 490.**

Delivered to the Governor for approval at 9:30 a.m., April 30, 2003: **SB 130, SB 406, SB 473, SB 490.**

Signed by the President at 4:00 p.m., May 1, 2003: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 461, SB 483, SB 484, SB 485, SB 487, SB 493, SJR 17.**

Signed by the Secretary of the Senate at 4:00 p.m., May 1, 2003: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 461, SB 483, SB 484, SB 485, SB 487, SB 493, SJR 17.**

Signed by the Speaker at 8:15 a.m., May 2, 2003: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 461, SB 483, SB 484, SB 485, SB 487, SB 493, SJR 17.**

Delivered to the Governor for approval at 9:15 a.m., May 2, 2003: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 461, SB 483, SB 484, SB 485, SB 487, SB 493.**

Delivered to the Secretary of State at 9:00 a.m., May 2, 2003: **SJR 17.**

MESSAGES FROM THE GOVERNOR

May 5, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 126** sponsored by Senator Story, **Senate Bill 270** sponsored by Senator Harrington et al., **Senate Bill 370** sponsored by Senator Gebhardt, **Senate Bill 375** sponsored by Senator Elliott, **Senate Bill 381** sponsored by Senator Keenan, **Senate Bill 484** sponsored by Senator Mangan, and **Senate Bill 490** sponsored by Senator Grimes et al. on May 5, 2003.

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Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE GOVERNOR

May 9, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 47** sponsored by Senator Gebhardt, **Senate Bill 57** sponsored by Senator Keenan, **Senate Bill 130** sponsored by Senator McGee, **Senate Bill 271** sponsored by Senator Stapleton et al., **Senate Bill 304** sponsored by Senator Johnson et al., **Senate Bill 326** sponsored by Senator McGee, and **Senate Bill 330** sponsored by Senator Mangan on May 9, 2003.

Sincerely,

JUDY MARTZ
Governor

May 9, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 336** sponsored by Senator Mahlum et al. and **Senate Bill 360** sponsored by Senator F. Thomas on May 9, 2003.

Sincerely,

JUDY MARTZ
Governor

May 9, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol

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Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 347** sponsored by Senator Keenan, **Senate Bill 395** sponsored by Senator Perry et al., **Senate Bill 415** sponsored by Senator F. Thomas et al., **Senate Bill 461** sponsored by Senator Story et al., **Senate Bill 483** sponsored by Senator Keenan et al., **Senate Bill 485** sponsored by Senator Cobb et al., **Senate Bill 487** sponsored by Senator Pease et al., and **Senate Bill 493** sponsored by Senator Keenan on May 9, 2003.

Sincerely,

JUDY MARTZ
Governor

**SENATE JOURNAL
58TH LEGISLATURE
FIRST LEGISLATIVE DAY**

Helena, Montana
January 6, 2003

Senate Chambers
State Capitol

At twelve o'clock noon the Senate of the 58th Legislature of the State of Montana was called to order with Senator Sprague, co-dean of the Senate presiding.

Senator Sprague introduced Senator Linda Nelson as co-dean of the Senate and stated that she would share the podium with him today. Senator Nelson thanked him for the introduction, and said it was an honor to have this position. She acknowledged that this session would be difficult, but that she was looking forward to working with all the members of the Legislature for the good of the State of Montana. She wished all the members Good Luck.

Senator Sprague addressed the Senate and also acknowledged the difficult decisions facing the 58th Legislature, and challenged the Senate to get the job done as effectively as possible.

Senator Sprague appointed Reverend Keith Johnson as temporary Chaplain and Chuckie Cramer as temporary Sergeant-at-Arms of the Senate.

The colors were posted by members of the Montana National Guard, followed by the Pledge of Allegiance to the Flag.

Invocation was given by Reverend Keith Johnson

Senator Sprague appointed Rosana Skelton as temporary Secretary of the Senate.

At the direction of Senator Sprague, the temporary Secretary called the roll of the newly elected Senators by district. The following Senators responded thereto:

District No. 1, Keith Bales; District No. 4, Kelly Gebhardt; District No. 7, John Bohlinger; District No. 9, Brent Cromley ; District No. 11, Dan McGee; District No. 12, Robert Story, Jr.; District No. 13, John Esp; District No. 14, Mike Wheat; District No. 16, Gary Perry; District No. 20, Duane Grimes; District No. 21, Trudi Schmidt; District No. 23, Jeff Mangan; District No. 24, Joseph Tropila; District No. 26, Mike Cooney; District No. 28, Sherm Anderson; District No. 30, Rick Laible; District 33, John Ellingson; District No. 34, Carolyn Squires; District No. 38, Bob Keenan; District No. 39, Gregory Barkus; District No. 41, Aubyn Curtiss; District No. 43, Glenn Roush; District No. 44, Jerry Black; District No. 45, John Tester; District No. 46, Ken Hansen.

The Honorable Justice Karla M. Gray was admitted to the Senate Chamber and administered the following official oath of office to the Senators-elect, who subscribed to the same:

"I do solemnly swear that I will support, protect, and defend the Constitution of the United States and the Constitution of the State of Montana, and that I will discharge the duties of my office as a Montana State Senator with Fidelity, so help me God."

Chief Justice Gray was escorted from the Senate Chambers.

At the direction of Senator Nelson, the temporary Secretary called the complete roll of the Senate. The following Senators responded thereto:

Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Keenan, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - JANUARY 6, 2003

Fifty members being present, Senator Nelson announced that the 58th Legislature was duly organized and ready for business.

MOTIONS

Senator Thomas moved that the rules of the 57th Legislature be adopted as the temporary operating rules of the 58th Legislature. Motion carried unanimously.

Senator Thomas moved that the accredited members of the press, radio and television be granted the privilege of the Senate floor, subject to the rules. Motion carried unanimously.

Senator Thomas moved that Senator Bob Keenan of District 38 be nominated for the office of President of the Senate of the 58th Legislature and further moved that his election carry with it the name of Walt McNutt of District 50 for the office of President Pro Tempore.

Senator Ellingson moved that Senator Jon Tester of District 45 be nominated for the office of President of the Senate of the 58th Legislature and further moved that his election carry with it the name of himself, Jon Ellingson of District 33, for office of President Pro Tempore.

Senator Keenan was elected President of the Senate by a voice vote; 29 votes for Senator Keenan, 21 votes for Senator Tester.

Senator Sprague announced the election of Senator Keenan as President and Senator McNutt as President Pro Tempore.

Senator Keenan assumed the Chair and made his opening remarks as follows:

Thank you, Senator Sprague, Senator Nelson, and thank you to the entire Senate. It is an overwhelming honor and a privilege to serve as your President, and I take these responsibilities very seriously. I like to say that I see this as a job, not a position, and I intend to serve you and the citizens of Montana with dedication and with diligence.

As is the case with each Senator, we each have support from people, and this support allows us to be here today...and for the coming four months. I have a few people here I would like to introduce to you all; the most important part of my support team. My best friend, my business partner, my everything, my wife Suzie. Three of my five children, Kyle, Sara, and Ryan. Also, family in so many ways, Blu and Rose Funk of Bigfork. Thank you all.

I would also like to welcome the 18 new Senators. We are 21 Democrats and 29 Republicans, but we are **50 Montanans**. We are a legislature made up of citizens who gather every other year. Our length of service is limited. We have varied lives outside of our legislative duties. We do have day jobs! It is very important to remember this. Each of your varied experiences and knowledge will be of great value to this body.

We as a state government come into 2003 facing a difficult financial situation. But these financial challenges also provide us an opportunity – a **unique** opportunity -- to make real changes in how our state government serves its citizens. I hope you feel comfort in knowing that Lewis and Clark are with us this session more so than any other session, in this, the bicentennial year of their travels in Montana. House Bill 2 is in good hands with House Appropriations Chairman Dave Lewis and Vice Chair Edith Clark.

As I feel a duty to serve each of you, we must all commit ourselves to serve **all** of Montana, together. Only by working together – Republicans and Democrats – will we be able to accomplish that task. Neither party can do it alone. I ask each and every one of you to look beyond party affiliation to find innovative ways to make government more responsive and provide necessary services most efficiently.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - JANUARY 6, 2003

We will be dealing with many complex and delicate issues that affect the daily lives of all Montanans. No matter which side of the aisle you are on, do not hesitate to talk to me or approach me with your thoughts, concerns and input. We must work together to make our state government more efficient and we need creative and innovative input to do that.

Thank you again for the privilege you have given me to serve you. Let's get to work.

President Keenan introduced Senator McNutt as the newly elected President Pro Tempore, Senator Thomas, Majority Leader, and Senator Tester, Minority Leader of the Montana Senate. Each Senator acknowledged their introduction with a short speech.

REPORTS OF STANDING COMMITTEES

COMMITTEE ON COMMITTEES (Zook, Chairman):

January 6, 2003

We, your Committee on Committees, recommend the following committee appointments:

AGRICULTURE, LIVESTOCK AND IRRIGATION

Keith Bales, Chair (R)
Dale Mahlum, Vice Chair (R)
Ken Hansen (D)
Sam Kitzenberg (R)
Walt McNutt (R)
Linda Nelson (D)
Gerald Pease (D)
Corey Stapleton (R)
Mike Taylor (R)
Joseph Tropila (D)

BUSINESS AND LABOR

Dale Mahlum, Chair (R)
Mike Sprague, Vice Chair (R)
Sherm Anderson, (R)
Vicki Cocchiarella (D)
Kelly Gephardt (/R)
Bob Keenan (R)
Sam Kitzenberg (R)
Ken Hansen (D)
Glenn Roush (D)
Don Ryan (D)
Carolyn Squires (D)
Fred Thomas (R)

COMMITTEE ON COMMITTEES

Tom Zook, Chair (R)
Bob DePratu, (R)
Duane Grimes (R)
Dale Mahlum (R)

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Mike Sprague (R)
Bill Tash (R)

EDUCATION AND CULTURAL RESOURCES

Bill Glaser, Chair (R)
Bob Story, Vice Chair (R)
Jerry Black (R)
Ed Butcher (R)
Mike Cooney (D)
Jim Elliott (D)
Royal Johnson (R)
Jeff Mangan (D)
Don Ryan (D)
Tom Zook (R)

ENERGY AND TELECOMMUNICATIONS

Royal Johnson, Chair (R)
Corey Stapleton, Vice Chair (R)
Bea McCarthy (D)
Walt McNutt (R)
Gary Perry (R)
Don Ryan (D)
Emily Stonington (D)
Bob Story (R)
Mike Taylor (R)
Ken Toole (D)

ETHICS

Tom Zook, Chair (R)
John Bohlinger (R)
Linda Nelson (D)
Trudi Schmidt (D)

FINANCE

Tom Zook, Chair (R)
Bill Tash, Vice Chair (R)
Greg Barkus (R)
Keith Bales (R)
Ed Butcher (R)
John Cobb (R)
Mike Cooney (D)
John Esp (R)
Rick Laible (R)
Royal Johnson (R)
Bob Keenan (R)
Bea McCarthy (D)
Linda Nelson (D)

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Trudi Schmidt (D)
Debbie Shea (D)
Corey Stapleton (R)
Emily Stonington (D)
Jon Tester (D)
Joe Tropila (D)

APPROPRIATIONS-FINANCE
Joint Subcommittees

Corrections and Public Safety Subcommittee

Representative Fisher, Chair (R)
Senator Stapleton, Vice Chair (R)
Representative Callahan (D)
Representative Juneau (D)
Representative Lewis (R)
Senator Schmidt (D)
Senator Bales (R)

Education Subcommittee

Representative Hedges, Chair (R)
Senator Johnson, Vice Chair (R)
Representative Lewis (R)
Representative Franklin (D)
Representative Buzzas (D)
Senator Esp (R)
Senator McCarthy (D)

General Government Subcommittee

Representative Brueggeman, Chair (R)
Senator Laible, Vice Chair (R)
Representative Lindeen (D)
Representative Sinrud (R)
Senator Barkus (R)
Senator Cooney (D)

Health and Human Services Subcommittee

Representative Clark, Chair (R)
Senator Cobb, Vice Chair (R)
Representative Haines (R)
Representative Jayne (D)
Senator Keenan (R)
Senator Stonington (D)

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Long Range Planning Subcommittee

Representative Kasten, Chair (R)
Senator Zook, Vice Chair (R)
Representative Witt (R)
Representative Kaufmann (D)
Senator Keenan (R)
Senator Tester (D)
Senator Tropila (D)

Natural Resources Subcommittee

Representative Pattison, Chair (R)
Senator Tash, Vice Chair (R)
Representative Ripley (R)
Representative Musgrove (D)
Senator Butcher (R)
Senator Nelson (D)
Senator Shea (D)

FISH AND GAME

Mike Sprague, Chair (R)
Dan McGee, Vice Chair (R)
Keith Bales (R)
Greg Barkus (R)
Ken Hansen (D)
Dale Mahlum (R)
Trudi Schmidt (D)
Debbie Shea (D)
Bill Tash (R)
Joseph Tropila (D)

HIGHWAYS AND TRANSPORTATION

Ed Butcher, Chair (R)
Duane Grimes, Vice Chair (R)
Sherm Anderson (R)
Vicki Cocchiarella (D)
Mike Cooney (D)
Aubyn Curtiss (R)
Bob DePratu (R)
Dan Harrington (D)
Sam Kitzenberg (R)
Jerry O'Neill (R)
Gerald Pease (D)
Glenn Roush (D)

JUDICIARY

Duane Grimes, Chair (R)

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Dan McGee, Vice Chair (R)
Brent Cromley (D)
Aubyn Curtiss (R)
Jeff Mangan (D)
Jerry O'Neil (R)
Gary Perry (R)
Gerald Pease (D)
Mike Wheat (D)

LEGISLATIVE ADMINISTRATION

Duane Grimes, Chair (R)
Dale Mahlum , Vice Chair (R)
Brent Cromley (D)
Sherm Anderson (R)
Bob Keenan (R)
Glenn Roush (D)
Joe Tropila (D)

LOCAL GOVERNMENT

John Bohlinger, Chair (R)
John Esp, Vice Chair (R)
Jerry Black (R)
Brent Cromley (D)
Jim Elliott (D)
Kelly Gebhardt (R)
Bill Glaser (R)
Rick Laible (R)
Jeff Mangan (D)
Carolyn Squires (D)
Mike Wheat (D)

NATURAL RESOURCES

Bill Tash, Chair (R)
Aubyn Curtiss, Vice Chair (R)
Sherm Anderson (R)
Greg Barkus (R)
John Ellingson (D)
Rick Laible (R)
Bea McCarthy (D)
Dan McGee (R)
Gary Perry (R)
Glenn Roush (D)
Debbie Shea (D)
Ken Toole (D)

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PUBLIC HEALTH, WELFARE AND SAFETY

Jerry O'Neil, Chair (R)
Duane Grimes, Vice Chair (R)
Bob DePratu (R)
John Bohlinger (R)
Brent Cromley (D)
John Esp (R)
Dan Harrington (D)
Trudi Schmidt (D)
Emily Stonington (D)

RULES

Fred Thomas, Chair (R)
Bob Keenan, Vice Chair (R)
Vickie Cocchiarella (D)
Duane Grimes (R)
Dan McGee(R)
Walt McNutt (R)
Bob Story (R)
Corey Stapleton (R)
Jon Ellingson (D)
Jim Elliott(D)
Emily Stonington (D)
Jon Tester(D)

STATE ADMINISTRATION

John Cobb, Chair (R)
Mike Sprague, Vice Chair (R)
Kelly Gebhardt (R)
Carolyn Squires (D)
Mike Wheat (D)

TAXATION

Bob DePratu, Chair (R)
Bob Story, Vice Chair (R)
John Bohlinger (R)
Jerry Black (R)
Jon Ellingson, (D)
Jim Elliott (D)
Bill Glaser (R)
Dan Harrington (D)
Walt McNutt (R)
Mike Taylor (R)
Ken Toole (D)

SENATE JOURNAL
FIRST LEGISLATIVE DAY - JANUARY 6, 2003

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

January 6, 2003

We, your committee on Legislative Administration, recommend that the following attaches of the Senate be employed as of 8:00 a.m., January 6, 2003:

Secretary of the Senate's Staff

Asst. Secretary of Senate	Susan Andersen
Secretary to the Secretary	Karen Bourquin
Admin Asst/ Aide	Kristina Murrell
Journal Clerk	Janean Meacham
Status Input	Shirley Warehime
Bills Clerk	Chris Ahner
Bills Coord/Reading Clerk	Burt Hurwitz
Bills Distribution/Asst. Amend.	Skip Crippen
Amendments Coordinator	Jane Redeau-Ogle
Senate Chaplain	Rev. Keith Johnson

Sergeant's Office

Asst Sergeant at Arms	Jim Heffernan
Supply Clerk	Brian Knutsvig
Page Supervisor	Bev Donaldson
Security (8-5)	Tom Harris
Security (3-11)	Jack McDonald
Security (weekends)	Dan Gilmore

Leadership Staff

Secretary to the President	Judy Feland
Aide to the President	Mary Schwarz
Secretary to Majority Leader	Freddie Haab
Aide to the Majority Leader	Brian Aliperto
Aide to the Majority Whip	Chris Wilcox
Secretary to the Minority Leader	Jeannie Forrester
Aide to the Minority Leader	Ray Peck
Aide to the Minority	Lynn Robson
Aide to the Minority	Adam Quinn

Committee Secretaries

Agriculture, Livestock & Irrigation	Jennifer Stephens
Business and Labor	Sherrie Handel
Education & Cultural Resources	Tari Elam
Finance and Claims	Prudence Gildroy
Fish and Game	Jane Hayden
Highways and Transportation	Shirley Herrin and Roberta Opel
Natural Resources	Shirley Herrin and Roberta Opel
Taxation	Shirley Herrin and Roberta Opel
Judiciary	Judy Keintz and Cindie Peterson
Local Government	Phoebe Olson
Public Health	Andrea Gustafson
State Administration	Mona Spaulding
Committee Aides	Amelia Pirrone

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	Rosie Fossum
	Sue Gantor
	Katherine Gilchrist
Word Processing Supervisor	Cari Louden
Word Processors	Carol Bridge
	Rosemary Sanborn
	Carol Bridge
	DeeAnn Turck
House & Senate Scanner	Susie Hamilton

Senate Pages for the week of Jan. 6 - Jan 11, 2003:

Krista Kochler - East Helena
Brittney Kitto - Toston
Paul Nistler - Helena
Bethany Foran - Helena

COMMUNICATIONS

January 6, 2003

Montana State Senate
58th Legislature
State Capitol
Helena, MT 59620

Dear Senators:

I am transmitting to you my appointments of Secretary of the Senate, Sergeant at Arms to the Senate, and Chaplain to the Senate, for your consideration and approval:

Secretary of the Senate - Rosana Skelton
Sergeant at Arms to the Senate - Chuckie Cramer
Chaplain to the Senate - Rev. Keith Johnson

Sincerely,

SENATOR BOB KEENAN
President of the Senate

President Pro Tempore McNutt moved that President Keenan's appointments of Rosana Skelton as Secretary of the Senate, Chuckie Cramer as Sergeant-at-Arms of the Senate and Reverend Keith Johnson as Chaplain of the Senate for the 58th Legislature be confirmed. Motion carried unanimously.

Majority Leader Thomas moved that the President appoint a select committee to notify the Governor that the Senate is organized and ready for the transaction of business and that it is ready to receive her State of the State message in a joint session on Tuesday, January 21, 2003 at 6:30 p.m. Motion carried.

The President appointed Senator Mahlum, chairman and Senator Shea, who were discharged to notify the Governor.

SENATE JOURNAL
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Majority Leader Thomas moved that the President appoint a select committee to notify the Chief Justice and associate members of the Supreme Court that the Senate is organized and ready for the transaction of business and to invite the Chief Justice and associate members of the Supreme Court to attend a joint session of the Senate and the House of Representatives on Tuesday, January 21, 2003 at 6:30 p.m. Motion carried.

The President appointed Senator Grimes, chairman and Senator Pease, who were discharged to notify the Justices.

Majority Leader Thomas moved that the President appoint a select committee to notify the House of Representatives that the Senate is organized and ready for business and that the Senate wished them success in their deliberations. Motion carried.

The President appointed Senator Curtiss, chairman and Senator Stonington, who were discharged to notify the House.

Majority Leader Thomas moved that the Senate stand at ease subject to the call of the chair, to await the reports from the select committees. Motion carried.

MESSAGES FROM THE OTHER HOUSE

A select committee from the House was escorted into the chambers and advised the Senate that the House was organized and ready for business and wished the Senate well.

REPORTS OF SELECT COMMITTEES

The committee appointed to notify the House of Representatives that the Senate was organized and ready for business reported that the House had been notified.

The committee appointed to notify the Chief Justice and associate members of the Supreme Court that the Senate was organized and ready for business reported that the Supreme Court had been notified.

The committee appointed to notify the Governor that the Senate was organized and ready for business reported that the Governor had been notified and that she wished the Legislature God's speed and advised that her door would always be open and that she was ready to work with the Senate and House.

Messages were acknowledged and committees dismissed.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 1, introduced by McCarthy, referred to State Administration.

SB 2, introduced by D. Ryan, referred to Energy and Telecommunications.

SB 3, introduced by Harrington (by request of the Clerk of the Supreme Court and the Law and Justice Interim Committee), referred to Judiciary.

SB 4, introduced by Roush (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

SB 5, introduced by Tash (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

SB 6, introduced by D. Ryan, referred to Education and Cultural Resources.

SB 7, introduced by Butcher, referred to State Administration.

SB 8, introduced by Sprague, referred to State Administration.

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FIRST LEGISLATIVE DAY - JANUARY 6, 2003

SB 9, introduced by Sprague, referred to State Administration.
SB 10, introduced by Grimes (by request of the Code Commissioner), referred to Judiciary.
SB 11, introduced by Harrington, referred to Taxation.
SB 12, introduced by Harrington, referred to Taxation.
SB 13, introduced by Mahlum (by request of the Department of Transportation), referred to Judiciary.
SB 14, introduced by McCarthy (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.
SB 15, introduced by O'Neil, referred to Judiciary.
SB 16, introduced by Mangan, Glaser (by request of the Education and Local Government Interim Committee), referred to Education and Cultural Resources.
SB 17, introduced by McGee (by request of the Legislative Council), referred to Legislative Administration.
SB 18, introduced by Grimes (by request of the Supreme Court), referred to Judiciary.
SB 19, introduced by Grimes (by request of the Supreme Court), referred to Judiciary.
SB 20, introduced by Grimes (by request of the Supreme Court), referred to Judiciary.
SB 21, introduced by McNutt (by request of the Department of Administration), referred to Business and Labor.
SB 22, introduced by L. Nelson, E. Clark, J. Keane, J. Tester, J. Witt, L. Lehman (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.
SB 23, introduced by Butcher, B. Thomas, Kasten, Lewis, Rice, Pattison, Tester, Witt, Lehman, L. Nelson, Devlin (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.
SB 24, introduced by Mangan, referred to Local Government.
SB 25, introduced by Mangan (by request of the Department of Corrections), referred to Judiciary.
SB 26, introduced by Mangan (by request of the Department of Administration), referred to Business and Labor.
SB 27, introduced by Johnson, Story, Mendenhall (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.
SB 28, introduced by Mangan (by request of the Department of Administration), referred to Business and Labor.
SB 29, introduced by O'Neil, referred to Judiciary.
SB 30, introduced by O'Neil, referred to Judiciary.
SB 31, introduced by Cobb, referred to Taxation.
SB 32, introduced by Mahlum (by request of the Department of Administration), referred to Judiciary.
SB 33, introduced by Cobb, referred to Local Government.
SB 34, introduced by Barkus (by request of the Department of Transportation), referred to Judiciary.
SB 35, introduced by Grimes (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Judiciary.
SB 36, introduced by Grimes (by request of the Supreme Court), referred to Business and Labor.
SB 37, introduced by Mahlum, referred to Judiciary.
SB 38, introduced by Mahlum (by request of the Commissioner of Political Practices), referred to State Administration.
SB 39, introduced by Mahlum (by request of the Department of Transportation), referred to Judiciary.
SB 40, introduced by Mahlum (by request of the Department of Justice and the Department of Revenue), referred to Business and Labor.
SB 41, introduced by Tropila (by request of the Board of Public Education), referred to Education and Cultural Resources.
SB 42, introduced by Tropila (by request of the Board of Public Education), referred to Education and Cultural Resources.
SB 43, introduced by Tropila (by request of the Board of Public Education), referred to Education and Cultural Resources.
SB 44, introduced by O'Neil, referred to Judiciary.
SB 45, introduced by Gebhardt, referred to Local Government.
SB 46, introduced by Gebhardt, referred to Local Government.
SB 47, introduced by Gebhardt, referred to Local Government.
SB 48, introduced by Keenan (by request of the Legislative Finance Committee), referred to Judiciary.

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FIRST LEGISLATIVE DAY - JANUARY 6, 2003

SB 49, introduced by Shea, referred to Judiciary.

SB 50, introduced by Shea, referred to State Administration.

SB 51, introduced by Bohlinger (by request of the Department of Commerce), referred to Business and Labor.

SB 52, introduced by Harrington, referred to Education and Cultural Resources.

SB 53, introduced by Harrington, referred to Business and Labor.

SB 54, introduced by Bohlinger, referred to State Administration.

SB 55, introduced by Keenan (by request of the Legislative Finance Committee), referred to Judiciary.

SB 56, introduced by Keenan (by request of the Legislative Finance Committee), referred to Judiciary.

SB 57, introduced by Keenan (by request of the Legislative Finance Committee), referred to Judiciary.

SB 58, introduced by O'Neil, referred to Judiciary.

SB 59, introduced by O'Neil, referred to Judiciary.

SB 60, introduced by O'Neil, referred to Local Government.

SB 61, introduced by Tester (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

SB 62, introduced by D. Ryan, referred to Energy and Telecommunications.

SB 63, introduced by Stapleton, referred to Education and Cultural Resources.

SB 64, introduced by Keenan (by request of the Department of Public Health and Human Services), referred to Judiciary.

SB 65, introduced by Roush (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

SB 66, introduced by Bohlinger (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

SB 67, introduced by Stonington (by request of the Transition Advisory Committee on Electric Utility Industry Restructuring), referred to Energy and Telecommunications.

SB 68, introduced by Cromley (by request of the Department of Justice), referred to Judiciary.

SB 69, introduced by Nelson (by request of the Department of Environmental Quality), referred to Natural Resources.

SB 70, introduced by McNutt (by request of the Transition Advisory Committee on Electric Utility Industry Restructuring), referred to Energy and Telecommunications.

SB 71, introduced by Barkus (by request of the Department of Environmental Quality), referred to Natural Resources.

SB 72, introduced by Cobb (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.

SB 73, introduced by Mahlum, referred to Judiciary.

SB 74, introduced by Keenan, referred to Education and Cultural Resources.

SB 75, introduced by Stapleton (by request of the Department of Military Affairs), referred to Judiciary.

SB 76, introduced by Schmidt (by request of the Office of Public Instruction), referred to Education and Cultural Resources.

SB 77, introduced by Johnson (by request of the Transition Advisory Committee on Electric Utility Industry Restructuring), referred to Energy and Telecommunications.

SB 78, introduced by McCarthy (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

SB 79, introduced by Sprague, referred to State Administration.

SB 80, introduced by Laible (by request of the Legislative Council), referred to Legislative Administration.

SB 81, introduced by Cooney (by request of the Office of Public Instruction), referred to Education and Cultural Resources.

SB 82, introduced by Kitzenberg, referred to Taxation.

SB 83, introduced by McGee (by request of the Department of Transportation), referred to Highways and Transportation.

SB 84, introduced by Cocchiarella (by request of the Revenue and Transportation Interim Committee), referred to Natural Resources.

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SB 85, introduced by Cocchiarella (by request of the Legislative Council), referred to Legislative Administration.
SB 86, introduced by Zook (by request of the Office of Budget and Program Planning), referred to Finance.
SB 87, introduced by Hansen, referred to Agriculture, Livestock and Irrigation.
SB 88, introduced by Bales (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.
SB 89, introduced by Tash, referred to Local Government.
SB 90, introduced by Kitzenberg, referred to Education and Cultural Resources.
SB 91, introduced by D. Ryan (by request of the Transition Advisory Committee on Electric Utility Industry Restructuring), referred to Energy and Telecommunications.
SB 92, introduced by D. Ryan (by request of the Office of Public Instruction), referred to Education and Cultural Resources.
SB 93, introduced by Kitzenberg, referred to Taxation.
SB 94, introduced by Stonington (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
SB 95, introduced by Stonington (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
SB 96, introduced by Kitzenberg, referred to Education and Cultural Resources.
SB 97, introduced by Story (by request of the Office of Public Instruction), referred to Education and Cultural Resources.
SB 98, introduced by Mangan, referred to Local Government.
SB 99, introduced by Laible (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.
SB 100, introduced by Grimes (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
SB 101, introduced by Mahlum, referred to Business and Labor.
SB 102, introduced by McNutt (by request of the Department of Transportation), referred to Highways and Transportation.
SB 103, introduced by Laible (by request of the Department of Environmental Quality), referred to Natural Resources.
SB 104, introduced by Tester (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
SB 105, introduced by Johnson (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
SB 106, introduced by Cromley (by request of the State Auditor), referred to Business and Labor.
SB 107, introduced by Roush, referred to Highways and Transportation.
SB 108, introduced by McNutt (by request of the Department of Labor and Industry), referred to Business and Labor.
SB 109, introduced by McNutt (by request of the Department of Labor and Industry), referred to Business and Labor.
SB 110, introduced by Toole (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.
SB 111, introduced by Nelson (by request of the State Auditor), referred to Public Health, Welfare and Safety.
SB 112, introduced by McCarthy, referred to Local Government.
SB 113, introduced by Esp (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
SB 114, introduced by Johnson, referred to Local Government.
SB 115, introduced by Mahlum (by request of the Governor), referred to Finance.
SB 116, introduced by Cooney (by request of the Department of Justice), referred to Judiciary.
SB 117, introduced by Cobb (by request of the Department of Administration), referred to State Administration.
SB 118, introduced by DePratu (by request of the Department of Justice), referred to Highways and Transportation.
SB 119, introduced by Tropila, referred to Taxation.

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FIRST LEGISLATIVE DAY - JANUARY 6, 2003

SB 120, introduced by Glaser, referred to Education and Cultural Resources.

SB 121, introduced by Glaser (by request of the Department of Revenue), referred to Taxation.

SB 122, introduced by Tash (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

SB 123, introduced by Glaser, referred to Judiciary.

SB 124, introduced by Tester (by request of the State Auditor), referred to Business and Labor.

SB 125, introduced by Tester (by request of the State Auditor), referred to Business and Labor.

SB 126, introduced by Story (by request of the Revenue and Transportation Interim Committee), referred to Taxation.

SB 127, introduced by Bohlinger (by request of the Board of Regents of Higher Education), referred to Education and Cultural Resources.

SB 128, introduced by Mahlum, referred to Finance.

SB 129, introduced by Elliott, referred to Judiciary.

SB 130, introduced by McGee (by request of the Department of Fish, Wildlife, and Parks, the Department of Natural Resources and Conservation), referred to Natural Resources.

SB 131, introduced by Barkus (by request of the Governor), referred to Business and Labor.

SB 132, introduced by McNutt (by request of the Department of Administration), referred to State Administration.

SB 133, introduced by Zook (by request of the Department of Corrections), referred to Judiciary.

SB 134, introduced by McNutt (by request of the Office of Budget and Program Planning), referred to Finance.

SB 135, introduced by F. Thomas (by request of the Legislative Finance Committee), referred to Finance.

SB 136, introduced by Butcher, referred to State Administration.

SB 137, introduced by DePratu (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

SB 138, introduced by Cobb, referred to Energy and Telecommunications.

SB 139, introduced by Shea (by request of the Department of Corrections), referred to Judiciary.

SB 140, introduced by Mahlum (by request of the State Auditor), referred to Business and Labor.

SB 141, introduced by Wheat (by request of the Department of Justice), referred to Judiciary.

SB 142, introduced by McNutt (by request of the Department of Administration), referred to State Administration.

SB 143, introduced by Bohlinger (by request of the State Auditor), referred to Business and Labor.

SB 144, introduced by Barkus (by request of the State Auditor), referred to Business and Labor.

SB 145, introduced by Bohlinger (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

SB 146, introduced by Anderson (by request of the Department of Environmental Quality), referred to Energy and Telecommunications.

SB 147, introduced by F. Thomas (by request of the Legislative Council), referred to Judiciary.

SB 148, introduced by Squires (by request of the State Auditor), referred to Public Health, Welfare and Safety.

SB 149, introduced by Barkus (by request of the Legislative Council), referred to State Administration.

SB 150, introduced by Johnson (by request of the Department of Natural Resources and Conservation), referred to Local Government.

SB 151, introduced by Mahlum (by request of the State Auditor), referred to Business and Labor.

SB 152, introduced by Cocchiarella (by request of the Department of Revenue), referred to Business and Labor.

SB 153, introduced by McNutt (by request of the State Compensation Insurance Fund), referred to Business and Labor.

SB 154, introduced by Stonington (by request of the Transition Advisory Committee on Electric Utility Industry Restructuring), referred to Energy and Telecommunications.

SB 155, introduced by Taylor (by request of the Department of Revenue), referred to Taxation.

SB 156, introduced by O'Neil, referred to Judiciary.

SB 157, introduced by O'Neil, referred to Public Health, Welfare and Safety.

SB 158, introduced by Johnson, referred to Taxation.

SB 159, introduced by Johnson, referred to Taxation.

**SENATE JOURNAL
FIRST LEGISLATIVE DAY - JANUARY 6, 2003**

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 1, introduced by F. Thomas (by request of Joint Rules Committee), referred to Rules.

SJR 2, introduced by D. Ryan, referred to Education and Cultural Resources.

SJR 3, introduced by Tash (by request of the Department of Military Affairs), referred to State Administration.

SJR 4, introduced by Elliott, referred to Fish and Game.

SJR 5, introduced by Ellingson, referred to Taxation.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 1, introduced by F. Thomas (by request of Senate Rules Standing Committee), referred to Rules.

SPECIAL ORDERS OF THE DAY

Senator Thomas introduced new Republican members of the Senate: Sherm Anderson, Keith Bales, Gregory Barkus, Jerry Black, Aubyn Curtiss, John Esp, Kelly Gebhardt, Rick Laible, Daniel McGee, Gary Perry and Robert Story. The new Senators introduced their families and guests.

Senator Tester introduced new Democratic members of the Senate: Mike Cooney, Brent Cromley, Ken Hansen, Jeff Mangan, Trudi Schmidt, Carolyn Squires, Joseph Tropila and Michael Wheat. The new Senators introduced their family and guests.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, January 7, 2003. Motion carried.

Senate adjourned at 1:32 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SECOND LEGISLATIVE DAY**

Helena, Montana
January 7, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Katie Butcher, granddaughter of Senator Butcher, presented the Senate with a recitation on the origin of the Pledge of Allegiance.

Roll Call. All members present except Senators Grimes and Harrington, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS REPORT

Correctly printed: **SB 31**.

JUDICIARY (Grimes, Chairman):

1/7/2003

SB 10, do pass. Report adopted.

SB 32, do pass. Report adopted.

SB 75, do pass. Report adopted.

TAXATION (DePratu, Chairman):

1/7/2003

SB 31, do pass. Report adopted.

MOTIONS

SB 14 - Senator McCarthy moved that Tash and Younkin be added as sponsors to **SB 14**. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 160, introduced by Cobb, referred to State Administration.

SB 161, introduced by Cobb, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 6, introduced by Grimes, referred to Legislative Administration.

Senator Grimes present at this time.

UNFINISHED BUSINESS

Senator Ellingson rose on a point of information and procedure concerning the Finance Committee's decision to begin the budget process with the 2000 budget figures.

President Pro Tempore McNutt assumed the chair.

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SECOND LEGISLATIVE DAY - JANUARY 7, 2003

A discussion was held explaining the Finance Committee's rationale for their actions.

President Keenan reassumed the chair.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, January 8, 2003. Motion carried.

Senate adjourned at 2:21 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRD LEGISLATIVE DAY**

Helena, Montana
January 8, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the Journal for the first legislative day.

REPORTS OF STANDING COMMITTEES

BILLS REPORT

Correctly printed: SB 10, SB 32, SB 75	1/7/2003
Correctly printed: SB 17, SB 21, SB 80, SB 85, SJR 1.	1/8/2003
Correctly engrossed: SB 33.	1/8/2003

BUSINESS AND LABOR (Mahlum, Chairman):	1/7/2003
SB 21 , do pass. Report adopted.	

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):	1/7/2003
SB 17 , do pass. Report adopted.	
SB 80 , do pass. Report adopted.	
SB 85 , do pass. Report adopted.	

LOCAL GOVERNMENT (Bohlinger, Chairman):	1/7/2003
SB 33 , introduced bill, be amended as follows:	

1. Page 1, line 12.

Following: "fireworks"

Insert: ", as defined in 50-37-105,"

And, as amended, do pass. Report adopted.

RULES (Thomas, Chairman):	1/7/2003
SJR 1 , be adopted. Report adopted.	

MOTIONS

SB 1- Senator McCarthy moved that Bales, Bohlinger, Buzzes, Cobb, Esp, Fisher, Franklin, Harrington, Kitzenberg,, Laslovich, Lindeen, McNutt, Nelson, Ripley, Roush, Ryan, Shea, Tash, Witt and Younkin be added as sponsors to **SB 1**. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 162, introduced by Story, referred to Business and Labor.

SENATE JOURNAL
THIRD LEGISLATIVE DAY - JANUARY 8, 2003

SB 163, introduced by Mangan, referred to Local Government.
SB 164, introduced by Mangan, referred to Judiciary.
SB 165, introduced by Cooney, Harris, referred to State Administration.
SB 166, introduced by Bales, Lenhart, Kasten, McNutt, Steinbeisser, referred to Fish and Game.
SB 167, introduced by Bales, Olson, Black, Curtiss, McGee, Steinbeisser, referred to Taxation.
SB 168, introduced by Stonington, Gebhardt, referred to Local Government.
SB 169, introduced by Mahlum, referred to Fish and Game.
SB 170, introduced by Mahlum, referred to Finance.
SB 171, introduced by Mahlum, referred to Business and Labor.
SB 172, introduced by McNutt, referred to Business and Labor.
SB 173, introduced by McNutt, referred to Energy and Telecommunications.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Sprague in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 10 - Senator Grimes moved **SB 10** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 31 - Senator Cobb moved **SB 31** do pass. Motion carried unanimously.

SB 32 - Senator Mahlum moved **SB 32** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

SENATE JOURNAL
THIRD LEGISLATIVE DAY - JANUARY 8, 2003

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 75 - Senator Stapleton moved **SB 75** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chair Sprague moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, January 9, 2003. Motion carried.

Senate adjourned at 1:27 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FOURTH LEGISLATIVE DAY**

Helena, Montana
January 9, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the second legislative day.

REPORTS OF STANDING COMMITTEES

BILLS REPORT

Correctly Engrossed: **SB 33.** 1/9/2003

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman): 1/8/2003

SB 23, do pass. Report adopted.

SB 27, do pass. Report adopted.

BUSINESS AND LABOR (Mahlum, Chairman): 1/8/2003

SB 26, introduced bill, be amended as follows:

1. Title, page 1, line 12.

Following: "'LOANS";"

Insert: "REQUIRING A VIOLATION FOR CIVIL REMEDIES TO BE INTENTIONAL;"

2. Title, page 1, line 13.

Following: "31-1-825,"

Insert: "31-1-826,"

3. Page 4, line 22.

Insert: "**Section 6.** Section 31-1-826, MCA, is amended to read:

"31-1-826. Civil remedies. (1) The remedies provided in this section are cumulative and apply to licensees and unlicensed persons to whom this part applies.

(2) Any intentional violation of this part constitutes an unfair or deceptive trade practice.

(3) A person found to have intentionally violated this part is liable to the consumer for actual and consequential damages, plus statutory damages of \$1,000 for each violation, plus costs and attorney fees.

(4) A consumer may sue for injunctive and other appropriate equitable relief to stop a person from violating any provisions of this part.

(5) The consumer may bring a class action suit to enforce this part.

(6) The remedies provided in this section are not intended to be the exclusive remedies available to a consumer for a violation of this part."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 1/9/2003

SB 41, do pass. Report adopted.

SENATE JOURNAL
FOURTH LEGISLATIVE DAY - JANUARY 9, 2003

SB 42, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "INTERVENTION SERVICES RECEIVED BY"

2. Page 1, line 12.

Strike: "intervention services"

Insert: "sensory impaired children"

3. Page 1, line 23.

Strike: "intervention services received by"

Following: "a"

Insert: "child identified as"

4. Page 1, line 24.

Strike: "child"

And, as amended, do pass. Report adopted.

SB 43, introduced bill, be amended as follows:

1. Page 1, line 22.

Strike: line 22 in its entirety

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

1/7/2003

SB 3, do pass. Report adopted.

SB 13, do pass. Report adopted.

1/9/2003

SB 19, do pass. Report adopted.

SB 20, do pass. Report adopted.

SB 55, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

1/9/2003

SB 100, do pass. Report adopted.

RULES (Thomas, Chairman):

1/9/2003

SR 1, introduced resolution, be amended as follows:

1. Page 9, line 28.

Strike: "tabling or"

Following: "postponing"

Insert: "or tabling"

2. Page 12, line 29.

Following: "(1)"

Insert: "(a)"

Strike: "At"

SENATE JOURNAL
FOURTH LEGISLATIVE DAY - JANUARY 9, 2003

Insert: "Except as provided in subsection (1)(b), at"

3. Page 13, line 2.

Following: line 1

Insert: "(b) The Finance and Claims Committee may request the introduction of legislation by a majority vote of all of the members of the committee."

4. Page 15, line 3.

Strike: "tabling or"

Following: "postponing"

Insert: "or tabling"

5. Page 16, lines 29 and 30.

Following: "again" on line 29

Strike: remainder of line 29 through "biennium" on line 30

6. Page 21, line 7.

Following: "taken." on line 7

Strike: remainder of line 7 in its entirety

And, as amended, be adopted. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

1/9/2003

SB 7, do pass. Report adopted.

SB 38, do pass. Report adopted.

SB 136, do pass. Report adopted.

MOTIONS

SB 112 - Senator McCarthy moved that Curtiss, Laslovich and Tash be added as sponsors to **SB 112**. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 174, introduced by Cocchiarella, referred to Education and Cultural Resources.

SB 175, introduced by Toole, referred to Highways and Transportation.

SB 176, introduced by Toole, referred to Taxation.

SB 177, introduced by Toole, referred to Judiciary.

SB 178, introduced by McCarthy, Gillan, referred to State Administration.

SB 179, introduced by McCarthy, Laslovich, referred to Fish and Game.

SB 180, introduced by D. Ryan, Cobb, Schmidt, Shea, referred to Business and Labor.

SB 181, introduced by D. Ryan, referred to Public Health, Welfare and Safety.

SB 182, introduced by Bohlinger, referred to State Administration.

SB 183, introduced by Bohlinger, referred to Education and Cultural Resources.

SB 184, introduced by Butcher, Anderson, Black, Fisher, Gebhardt, Haines, Hedges, Kasten, Keenan, Laible, Lehman, McGee, Pattison, Perry, Ripley, Sinrud, Story, Taylor, B. Thomas, referred to Fish and Game.

SB 185, introduced by DePratu, referred to Business and Labor.

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SB 186, introduced by Butcher, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 7, introduced by Laible, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Fuchs, Roush, Sprague, Story, Tash, Tropila, Zook, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Nelson in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 17 - Senator McGee moved **SB 17** do pass. Motion carried unanimously.

SB 21 - Senator McNutt moved **SB 21** do pass. Motion carried unanimously.

SB 33 - Senator Cobb moved **SB 33** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: Elliott.
Total 1

Excused: None.
Total 0

SB 80 - Senator Laible moved **SB 80** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Nelson.
Total 1

Absent or not voting: Cobb.

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Total 1

Excused: None.

Total 0

SB 85 - Senator Cocchiarella moved **SB 85** do pass. Motion carried unanimously.

SJR 1 - Senator F. Thomas moved **SJR 1** be adopted. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Nelson moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 10 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 31 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 32 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 75 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, January 10, 2003. Motion carried.

Senate adjourned at 1:54 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTH LEGISLATIVE DAY**

Helena, Montana
January 10, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Cocchiarella, excused. Quorum present.

The presiding officer has authenticated the daily journal for the third legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 3, SB 7, SB 13, SB 19, SB 20, SB 23, SB 27, SB 38, SB 41, SB 55, SB 100, SB 136, SB 160-SB 186, SJR 6, SJR 7.**

Correctly engrossed: **SB 26, SB 42, SB 43.**

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

1/9/2003

SB 102, do pass. Report adopted.

SB 107, do pass. Report adopted.

MOTIONS

SJR 6 - Senator Grimes moved that **SJR 6** be taken from the Legislative Administration Committee and rereferred to the Finance and Claims Committee. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 187, introduced by Curtiss, Balyeat, D. Brown, Brueggeman, Fuchs, Hedges, Laszloffy, Lehman, Lewis, Mendenhall, Mood, A. Olson, D. Ryan, Schrumpf, Sinrud, Steinbeisser, Tropila, referred to Fish and Game.

SB 188, introduced by Cocchiarella, Glaser, Golie, Lange, referred to Business and Labor.

SB 189, introduced by Curtiss, Lawson, McGee, referred to Judiciary.

SB 190, introduced by Bohlinger, Schrumpf, referred to Public Health, Welfare and Safety.

SB 191, introduced by O'Neil, referred to Local Government.

SB 192, introduced by O'Neil, referred to Public Health, Welfare and Safety.

SB 193, introduced by O'Neil, referred to Business and Labor.

SB 194, introduced by Tash, McCarthy, Younkin, referred to Natural Resources.

SB 195, introduced by Grimes, Ellingson, Cooney, Keenan, Mahlum, McGee, Nelson, Pease, Tash, Tester, F. Thomas, Wheat, referred to State Administration.

SB 196, introduced by Kitzenberg, referred to Education and Cultural Resources.

SB 197, introduced by Perry, Black, Bookout-Reinicke, Butcher, Curtiss, DePratu, Keane, Lindeen, McGee, Mendenhall, A. Olson, Roush, Sales, Smith, Wheat, Younkin, referred to Local Government.

SB 198, introduced by Stonington, referred to Business and Labor.

SB 199, introduced by Stonington, referred to Energy and Telecommunications.

SB 200, introduced by Glaser, referred to Natural Resources.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Stapleton moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Cocchiarella present at this time.

SB 3 - Senator Harrington moved **SB 3** do pass. Motion carried as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 29

Nays: Anderson, Bales, Barkus, Butcher, Curtiss, DePratu, Esp, Glaser, Kitzenberg, Laible, Mahlum, McGee, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 7 - Senator Bohlinger moved **SB 7**, second reading copy, be amended as follows :

1. Page 1, line 15.

Following: "is appointed"

Insert: ":(a)"

2. Page 1, line 17.

Following: "senate"

Insert: "; or

(b) by the board of regents of higher education to serve either as the commissioner of higher education or as the chief executive officer of a campus of the Montana university system"

Amendment **adopted** as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

Nays: Anderson, Cobb, Curtiss, Gebhardt, McGee, Sprague.

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Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 7 - Senator Butcher moved **SB 7**, as amended, do pass. Motion carried unanimously.

SB 136 - Senator Butcher moved **SB 136** do pass. Motion carried unanimously.

SB 19, SB 20, SB 100 - Senator Thomas moved that **SB 19, SB 20 and SB 100** be moved to the bottom of the second reading board. Motion carried.

SB 23 - Senator Butcher moved **SB 23** do pass. Motion carried unanimously.

SB 27 - Senator Johnson moved **SB 27** do pass. Motion carried unanimously.

SB 38 - Senator Mahlum moved **SB 38** do pass. Motion carried unanimously.

SB 41 - Senator Tropila moved **SB 41** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 55 - Senator Keenan moved **SB 55** do pass. Motion carried unanimously.

SB 13 - Senator Thomas moved **SB 13** be placed at the bottom of the second reading board.. Motion carried.

Senator Zook assumed the chair.

SB 19 - Senator Grimes moved **SB 19** do pass. Motion carried unanimously.

SB 20 - Senator Grimes moved **SB 20** do pass. Motion carried unanimously.

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SB 100 - Senator Grimes moved **SB 100** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 45

Nays: Ryan, Squires, Tropila.

Total 3

Absent or not voting: Cobb, Elliott.

Total 2

Excused: None.

Total 0

Senator Grimes reassumed the chair.

SB 13 - Senator O'Neil moved **SB 13**, second reading copy, be amended as follows :

1. Page 1, line 21.

Following: "more"

Insert: ", except as provided in subsection (3)"

2. Page 2, line 5.

Following: line 4

Insert: "(3) A person whose blood alcohol concentration is 0.08 or more but less than 0.10 and who is legally parked for a period of 10 minutes or more cannot be considered to be driving a motor vehicle for purposes of subsection (1)(b)."

3. Page 4, line 12.

Following: "alcohol"

Insert: ", except as provided in subsection (8)"

4. Page 4, line 22.

Following: line 21

Insert: "(8) A person whose blood alcohol concentration is 0.08 or more but less than 0.10 and who is legally parked for a period of 10 minutes or more cannot be considered to be driving or in actual physical control of a motor vehicle for purposes of subsection (4)(c)."

5. Page 4, line 29.

Following: "more"

Insert: ", except as provided in subsection (3)"

6. Page 5, line 3.

Following: line 2

Insert: "(3) A person whose blood alcohol concentration is 0.08 or more but less than 0.10 and who is legally parked

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for a period of 10 minutes or more cannot be considered to be driving or in actual physical control of a motor vehicle for purposes of subsection (1)(a)."

Amendment **not** adopted as follows:

Yeas: Bales, Butcher, Cobb, Cocchiarella, Cromley, Gebhardt, Glaser, O'Neil, Shea, Sprague, Taylor, Mr. President.
Total 12

Nays: Anderson, Barkus, Black, Bohlinger, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 38

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 13 - Senator Mahlum moved **SB 13** do pass. Motion carried with Senator O'Neil voting nay.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted.

Senator F. Thomas made a **substitute motion** that **SB 136** be segregated from the Committee of the Whole report for purpose of amendment, and the remainder of the report be adopted. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 136 - Senator F. Thomas moved **SB 136**, second reading copy, be amended as follows :

1. Title, line 6.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 3, line 4.

Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

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Amendment **adopted** unanimously.

SB 136 - Senator Butcher moved **SB 136**, as amended, do pass. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 7, SB 136 - Senator Thomas moved that the rules be suspended to allow **SB 7** and **SB 136** to be placed on third reading this legislative day. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 17 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 21 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 33 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 80 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 85 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SJR 1 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 7 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 136 - Senator Thomas moved that **SB 136** be taken from the third reading board this day and that it be sent to engrossing and placed on third reading Monday, January 13, 2003, the 6th legislative day. Motion carried.

MOTIONS

SJR 6 - Senator Zook moved that **SJR 6** be taken from the committee on Finance and Claims and rereferred to the committee on Taxation. Motion carried.

SB 41 - Senator Tester moved that he be allowed to change his vote on **SB 41** from nay to yea. Motion carried.

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FIFTH LEGISLATIVE DAY - JANUARY 10, 2003

Senators Johnson and Taylor excused at this time.

Senator Thomas moved that the President of the Senate be authorized to appoint a Joint Select Committee on redistricting and apportionment. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Thomas, Zook, Mr. President.

Total 30

Nays: Cocchiarella, Ellingson, Elliott, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: Johnson, Taylor.

Total 2

The President appointed Senator Barkus, chairman, Senator Pease and Senator Thomas.

ANNOUNCEMENTS

Senator Stapleton introduced the Senate pages and gave a brief overview of their future plans.

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, January 13, 2003. Motion carried.

Senate adjourned at 3:45 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTH LEGISLATIVE DAY**

Helena, Montana
January 13, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Johnson, Squires and Stonington, excused . Quorum present.

The presiding officer has authenticated the daily journals for the fourth and fifth legislative days.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **SR 1.** 1/10/2003
Correctly engrossed: **SB 7, SB 136.** 1/13/2003
Correctly printed: **SB 187, SB 188, SB 189, SB 190, SB 191, SB 192, SB 193, SB 194, SB 195, SB 196, SB 197, SB 198, SB 199, SB 200.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman): 1/13/2003
SB 22, do pass. Report adopted.

BUSINESS AND LABOR (Mahlum, Chairman): 1/10/2003
SB 125, introduced bill, be amended as follows:

1. Page 3, line 8.

Following: "is"

Strike: "using or has used"

Insert: "used in conjunction with"

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman): 1/13/2003
SB 49, introduced bill, be amended as follows:

1. Page 1, line 29.

Following: "(2)"

Insert: "Military discharge certificates are confidential and are exempt from the provisions of Title 2, chapter 6."

Following: "may"

Strike: "not"

Following: "disclosed"

Insert: "only"

Following: "to"

Strike: remainder of line 29 through "member" on line 30

Insert: ":

(a) the service member who filed the certificate;

(b) if the service member is deceased, the next of kin of the service member or a mortuary, as defined in 10-2-111, for the purposes of securing the burial benefits to which the service member is entitled;

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(c) a veterans' service officer or a veterans' service organization, as defined in 10-2-111;
(d) the veterans' affairs division of the Montana department of military affairs; or
(e) any person with written authorization from the service member or from the next of kin of the service member, if the service member is deceased"

2. Page 2, line 1 through line 2.

Strike: subsection (3) in its entirety

And, as amended, do pass. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

1/13/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 5:00 p.m., Friday, January 10, 2003:

TITLE

NAME

Pages:	Krista Kochler, East Helena
	Brittney Kitto, Toston
	Paul Nistler, Helena
	Bethany Foran, Helena

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, January 13, 2003:

TITLE

NAME

Pages:	Tess Ritter, Rudyard, MT
	Vanessa Jones, Conrad, MT
	Rebecca Wahl, Cut Bank, MT
	Robert Price, Buffalo, MT
	Larisa Springer, Missoula, MT
	Abigail Redfern, Missoula, MT
	Danielle Josephsen, Conrad, MT

Report Adopted.

NATURAL RESOURCES (Tash, Chairman):

1/13/2003

SB 69, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

1/13/2003

SB 1, do pass. Report adopted.

SB 54, introduced bill, be amended as follows:

1. Page 2, line 18.

Following: "(2)"

Insert: "The prohibition against appointing an immediate family member pursuant to subsection (1)(d) does not constitute marital status discrimination under Title 49.

(3)"

And, as amended, do pass. Report adopted.

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TAXATION (DePratu, Chairman):

1/13/2003

SB 126, introduced bill, be amended as follows:

1. Page 4.

Following: line 25

Insert: "(iii) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools, and supplies except those included in class five;"

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

Senator Squires present at this time.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence:

1/13/2003

HB 49, introduced by Haines

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 201, introduced by Nelson, Ballantyne, Bergren, Bixby, Carney, Cohenour, Gallik, Hedges, Kitzenberg, Lawson, Lehman, Lenhart, Lindeen, Mangan, Olson, Ripley, Shea, Tester, Younkin, referred to Energy and Telecommunications.

SB 202, introduced by Johnson, McCarthy, referred to Education and Cultural Resources.

SB 203, introduced by Taylor, referred to State Administration.

SB 204, introduced by Taylor, referred to State Administration.

SB 205, introduced by Cobb, referred to Education and Cultural Resources.

SB 206, introduced by Anderson, Gebhardt, referred to Natural Resources.

SB 207, introduced by Kitzenberg, referred to Highways and Transportation.

SB 208, introduced by Kitzenberg, referred to Fish and Game.

SB 209, introduced by Tester, Pattison, Balyeat, Barrett, D. Brown, Brueggeman, Devlin, Ellingson, Esp, Everett, Facey, Fisher, Harrington, Hedges, Jackson, Jacobson, Kasten, Malcolm, Musgrove, Nelson, Ripley, Ross, Sales, Stapleton, Steinbeisser, Stoker, Wanzenried, Witt, referred to Fish and Game.

SB 210, introduced by Elliott, Jent, Bohlinger, Callahan, Roush, Tester, Tropila, Wheat, referred to Education and Cultural Resources.

SB 211, introduced by Hansen, referred to Local Government.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Cocchiarella in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

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SB 26 - Senator Mangan moved **SB 26** do pass. Motion carried unanimously.

Senator Stonington present at this time.

SB 42 - Senator Tropila moved **SB 42** do pass. Motion carried unanimously.

SB 43 - Senator Tropila moved **SB 43** do pass. Motion carried unanimously.

SR 1 - Senator F. Thomas moved **SR 1** be moved to the bottom of the second reading board. Motion carried.

SB 102 - Senator McNutt moved **SB 102** do pass. Motion carried unanimously.

SB 107 - Senator Roush moved **SB 107** do pass. Motion carried unanimously.

Senator Johnson present at this time.

SR 1 - Senator F. Thomas moved **SR 1** be adopted. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Cocchiarella moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 3 passed as follows:

Yeas: Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.
Total 35

Nays: Anderson, Bales, Black, Butcher, Curtiss, DePratu, Esp, Laible, McGee, Sprague, Stapleton, Story, Tash, Taylor, Zook.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 13 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton,

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Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 19 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 20 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 23 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 27 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 41 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 55 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 100 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 136 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: O'Neil, Taylor.
Total 2

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SB 38 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Story.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

SB 136 - Senator Taylor moved that he be allowed to change his vote on **SB 136** from yea to nay. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, January 14, 2003. Motion carried.

Senate adjourned at 2:51 a.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTH LEGISLATIVE DAY**

Helena, Montana
January 14, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the sixth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 201, SB 202, SB 203, SB 204, SB 205, SB 206, SB 207, SB 208, SB 209, SB 210, SB 211.**

Correctly engrossed: **SB 49, SB 54, SB 125, SB 126.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
SB 87, do pass. Report adopted.

1/13/2003

BUSINESS AND LABOR (Mahlum, Chairman):
SB 51, do pass. Report adopted.
SB 152, introduced bill, be amended as follows:

1/13/2003

1. Title, page 1, line 6.

Following: "'SPECIAL EVENT";

Strike: "AND"

2. Title, page 1, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 3, line 21.

Following: "organization"

Insert: " or institution"

4. Page 3, lines 22 and 23.

Following: "amended," on line 22

Strike: "or"

Following: "person" on line 23

Insert: ", or that is an accredited Montana postsecondary school"

5. Page 3, line 29.

Following: "amended,"

Insert: "or an organization authorized by an accredited Montana postsecondary school to engage in fundraising activities for intercollegiate athletics that has a tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended,"

Following: "receive"

Strike: "the number of"

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Insert: "up to 12"

Following: "permits"

Insert: "a year"

6. Page 3, line 30.

Following: "wine"

Strike: "reasonably" through "activities"

Following: "."

Insert: "For purposes of fundraising activities for intercollegiate athletics, only one organization for each Montana postsecondary school may be authorized to apply for and receive special permits under this section."

7. Page 6, line 5.

Following: "(b)"

Strike: "\$200"

Insert: "\$1,000"

8. Page 7, line 26.

Following: line 25

Insert: "NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2003."

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

1/14/2003

SJR 2, be adopted. Report adopted.

JUDICIARY (Grimes, Chairman):

1/14/2003

SB 68, introduced bill, be amended as follows:

1. Page 2, line 3.

Following: "offense."

Strike: "The"

Insert: "Except for an aggravating circumstance described in subsection (4), the"

2. Page 2, line 5.

Following: "~~(4)~~"

Insert: "(4)"

3. Page 2, line 6.

Following: "~~not~~"

Insert: "not"

And, as amended, do pass. Report adopted.

SB 133, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

1/13/2003

SB 14, do pass. Report adopted.

SB 71, introduced bill, be amended as follows:

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1. Page 2, line 15.

Following: "fuel"

Strike: "and" through "2001"

And, as amended, do pass. Report adopted.

SB 84, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

1/13/2003

SB 104, do pass. Report adopted.

SB 113, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/13/2003

HB 16, introduced by Haines

HB 21, introduced by Smith

HB 36, introduced by Lawson

HB 50, introduced by Haines

HB 117, introduced by Kaufmann

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 212, introduced by Kitzenberg, referred to Education and Cultural Resources.

SB 213, introduced by Nelson, Lambert, Ballantyne, Black, Golie, Hedges, Kitzenberg, Lenhart, Roush, Tester, Tropila, Witt, referred to Agriculture, Livestock and Irrigation.

SB 214, introduced by Stonington, referred to Legislative Administration.

SB 215, introduced by Toole, referred to Energy and Telecommunications.

SB 216, introduced by Cocchiarella, Bergren, Elliott, Facey, Galvin-Halcro, Glaser, Keane, Keenan, Kitzenberg, Laible, Mahlum, Matthews, McNutt, Shea, Tash, F. Thomas, Wanzonried, referred to Business and Labor.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 8, introduced by Tester, referred to Agriculture, Livestock and Irrigation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 22 - Senator Nelson moved **SB 22** do pass. Motion carried unanimously.

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SB 69 - Senator Nelson moved **SB 69** do pass. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 26 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 42 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Story.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 43 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan,

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McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 102 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 107 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SR 1 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Ryan.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, January 15, 2003. Motion carried.

Senate adjourned at 1:22 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTH LEGISLATIVE DAY**

Helena, Montana
January 15, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Stonington, excused. Quorum present.

The presiding officer has authenticated the daily journal for the seventh legislative day.

Senator Stonington present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 212, SB 213, SB 214, SB 215, SB 216.**

Correctly engrossed: **SB 71, SB 152.**

BUSINESS AND LABOR (Mahlum, Chairman):

1/14/2003

SB 28, introduced bill, be amended as follows:

1. Title, page 1, line 15.

Following: "LOAN;"

Insert: "INCREASING THE INSUFFICIENT FUNDS FEE FROM \$15 TO \$30; REQUIRING A VIOLATION FOR CIVIL REMEDIES TO BE INTENTIONAL;"

2. Title, page 1, line 16.

Following: "31-1-722,"

Insert: "31-1-724,"

3. Page 3, line 23.

Strike: "\$15"

Insert: "\$30"

4. Page 3, line 28.

Strike: "\$15"

Insert: "\$30"

5. Page 4, line 6.

Insert: "**Section 6.** Section 31-1-724, MCA, is amended to read:

"31-1-724. Civil remedies. (1) The remedies provided in this section are cumulative and apply to licensees and unlicensed persons to whom this part applies.

(2) Any intentional violation of this part constitutes an unfair or deceptive trade practice.

(3) Any person found to have intentionally violated this part is liable to the consumer for actual and consequential damages, plus statutory damages of \$1,000 for each violation, plus costs and attorney fees.

(4) A consumer may sue for injunctive and other appropriate equitable relief to stop a person from violating any provisions of this part.

(5) The consumer may bring a class action suit to enforce this part.

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(6) The remedies provided in this section are not intended to be the exclusive remedies available to a consumer for a violation of this part.""

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 36, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Following: "COURT"

Insert: "IS A SOLE PROPRIETOR AND"

Following: "NOT"

Strike: "A"

Insert: "AN EMPLOYEE OF THE"

Following: "BRANCH"

Strike: "EMPLOYEE"

Following: "BRANCH"

Insert: ", A LOCAL GOVERNMENT, OR A WATER USER"

2. Page 2, line 10.

Following: "purchase"

Insert: "a"

Following: "insurance"

Insert: "policy, elect"

3. Page 2, line 11.

Following: "coverage"

Insert: "on themselves"

4. Page 2, line 26.

Following: "court"

Insert: "is a sole proprietor and"

Following: "branch"

Insert: ", a local government, or a water user"

5. Page 2, line 27.

Following: line 26

Insert: "(7) A water commissioner who fails to obtain workers' compensation insurance coverage required by subsection (4) is precluded from receiving benefits under Title 39, chapter 71 or 72, as a result of the performance of duties as a water commissioner. "

And, as amended, do pass. Report adopted.

SB 40, do pass. Report adopted.

1/15/2003

JUDICIARY (Grimes, Chairman):

1/15/2003

SB 56, introduced bill, be amended as follows:

1. Page 1, line 20.

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Following: "longest"

Insert: "single"

2. Page 3, line 4 through line 6.

Following: "exceed the" on line 4

Strike: remainder of line 4 through "46-14-214" on line 6

Insert: "maximum sentence determined under 46-14-214(2)"

And, as amended, do pass. Report adopted.

SB 64, introduced bill, be amended as follows:

1. Page 2, line 3.

Following: "attorney;"

Strike: "and"

2. Page 2, line 5.

Following: "heading"

Insert: "; and

(i) the name and address of the mental health facility to which it is proposed that the respondent may be committed, if known"

3. Page 2, line 10.

Following: "hand-delivered"

Strike: "or"

Insert: ", "

Following: "mailed"

Insert: ", or sent by a facsimile transmission"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

1/13/2003

SB 5, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/14/2003

HB 39, introduced by Gallik

HB 65, introduced by Matthews

MOTIONS

SB 68 - Senator Grimes moved that **SB 68** be taken from second reading and rereferred to the committee on Judiciary. Motion carried.

SB 201 - Senator Nelson moved that **SB 201** be taken from the committee on Energy and Telecommunications and rereferred to the committee on Business and Labor. Motion carried.

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SB 185 - Senator DePratu moved **SB 185** be taken from the committee on Business and Labor and rereferred to the committee on Taxation. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 217, introduced by Mahlum, Bohlinger, Cooney, referred to Highways and Transportation.

SB 218, introduced by McNutt, referred to Judiciary.

SB 219, introduced by Toole, referred to Energy and Telecommunications.

SB 220, introduced by F. Thomas, R. Brown, Brueggeman, DePratu, Ellingson, Fuchs, Keenan, Laszloffy, McNutt, Stonington, Story, Tester, Wheat, referred to Energy and Telecommunications.

SB 221, introduced by Kitzenberg, referred to Fish and Game.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 14 - Senator McCarthy moved **SB 14** do pass. Motion carried unanimously.

The Senate stood at ease.

Students from the School for the Deaf and Blind located in Great Falls, presented contemporary songs accompanied with sign language.

Senate resumed.

SB 49 - Senator Shea moved **SB 49** do pass. Motion carried unanimously.

SB 51 - Senator Bohlinger moved **SB 51** do pass. Motion carried unanimously.

SB 54 - Senator Bohlinger moved **SB 54** do pass. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cooney, Cromley, Ellingson, Hansen, Harrington, Johnson, Nelson, Pease, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Taylor, Tester, Thomas, Toole, Wheat, Mr. President.

Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Stapleton, Story, Tash, Tropila, Zook.

Total 28

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 84 - Senator Cocchiarella moved **SB 84** do pass. Motion carried unanimously.

SB 87 - Senator Hansen moved **SB 87** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Ellingson.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 104 - Senator Tester moved **SB 104** do pass. Motion carried unanimously.

SB 113 - Senator Esp moved **SB 113** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 125 - Senator Tester moved **SB 125** do pass. After discussion, Senator Johnson made a substitute motion that **SB 125**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Following: "BUSINESSES;"

Insert: "REQUIRING WRITTEN NOTICE FOR AN OFFER TO NOT MORE THAN 10 PERSONS;"

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2. Page 2, line 23.

Strike: "and"

3. Page 2, line 27.

Following: "amended"

Insert: "; and

(iii) the offeror notifies the commissioner, in writing, on a form provided by the commissioner, of the offeror's intent to use the exemption provided for in this subsection (8)(a)"

Amendment **not** adopted as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Glaser, Johnson, Perry, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.

Total 17

Nays: Bales, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.

Total 33

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 125 - Senator Tester's motion that **SB 125** do pass carried as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 46

Nays: Barkus, Johnson, Stapleton, Zook.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Senator Thomas moved to **segregate SB 54** from the Committee of the Whole Report. Motion carried. Chairman Tropila moved the remainder of the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 22 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 69 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Laible.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

SB 54 - Senator Thomas moved **SB 54** be taken from the second reading board and rereferred to the committee on State Administration. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, January 16, 2003. Motion carried.

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Senate adjourned at 3:13 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
NINTH LEGISLATIVE DAY**

Helena, Montana
January 16, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the eighth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 217, SB 218, SB 219, SB 220, SB 221.**

Correctly engrossed: **SB 28, SB 36, SB 54, SB 64.**

Correctly enrolled: **SR 1.**

Signed by the President at 3:00 p.m., January 14, 2003: **SR 1.**

Signed by the Secretary of the Senate at 3:15 p.m., January 14, 2003: **SR 1.**

Delivered to the Secretary of State at 10:35 a.m., January 16, 2003: **SR 1.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/15/2003

HB 46, introduced by Haines

HB 172, introduced by Gallik

MOTIONS

SB 99 - Senator Tash moved that **SB 99** be taken from the committee on Natural Resources and rereferred to the committee on Judiciary. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 222, introduced by Bohlinger, Rice, Black, Gebhardt, Laible, Mahlum, Perry, Sinrud, Stonington, Tash, Tester, Wanzenried, Wheat, referred to Local Government.

SB 223, introduced by McNutt, Raser, Buzzas, Gebhardt, Haines, Tester, Wanzenried, referred to Highways and Transportation.

SB 224, introduced by Kitzenberg, referred to Taxation.

SB 225, introduced by Kitzenberg, referred to Highways and Transportation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Stapleton moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

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Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 126 - Senator Story moved **SB 126** do pass. Motion carried unanimously.

SJR 2 - Senator D. Ryan moved **SJR 2** be adopted. Motion carried unanimously.

SB 5 - Senator Tash moved **SB 5** do pass. Motion received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 40 - Senator Mahlum moved **SB 40** do pass. Motion carried unanimously.

Senator McGee assumed the chair.

SB 71 - Senator Barkus moved **SB 71** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Stapleton.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Barkus re-assumed the chair.

SB 152 - Senator Cocchiarella moved **SB 152** do pass. Motion carried unanimously.

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Senator Stapleton moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 14 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 49 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 51 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 49

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 84 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 87 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 104 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan,

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McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 113 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 125 passed as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 45

Nays: Barkus, Johnson, Stapleton, Taylor, Zook.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, January 17, 2003. Motion carried.

Senate adjourned at 2:04 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TENTH LEGISLATIVE DAY**

Helena, Montana
January 17, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding.

Sergeant-at-Arms Cramer escorted President Jefferson and the Lewis and Clark color guard to the well of the Senate. Invocation by Pastor Keith Johnson. President Jefferson led the Senate in the Pledge of Allegiance and gave a short speech to the Senate commemorating the beginning of the Lewis and Clark expedition.

Sergeant-at-Arms Cramer escorted the group from the chambers.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the ninth legislative day.

REPORTS OF STANDING COMMITTEES

BILLS REPORT

Correctly printed: **SB 222, SB 223, SB 224, SB 225.**

Correctly engrossed: **SB 68.**

BUSINESS AND LABOR (Mahlum, Chairman):
SB 144, do pass. Report adopted.

1/16/2003

JUDICIARY (Grimes, Chairman):
SB 30, introduced bill, be amended as follows:

1/17/2003

1. Page 1, line 30.

Following: line 29

Insert: "(5) If a jury trial is requested, the court shall take necessary steps to protect the confidentiality and best interests of the child, including:

(a) scheduling the matter for trial at the earliest date possible, with the matter taking precedence over all other matters;

(b) determining whether the testimony of the child is relevant and necessary;

(c) if the child's testimony is relevant, deciding whether the child will testify by deposition or by other alternative means; and

(d) any other protective measures."

And, as amended, do pass. Report adopted.

SB 39, introduced bill, be amended as follows:

1. Title, line 5 through line 7.

Following: "'AN ACT"

Strike: line 5 through "DATE" on line 7 in their entirety

Insert: "PROHIBITING UNLAWFUL POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER BY A PERSON IN A MOTOR VEHICLE; PROHIBITING CONSUMPTION OF AN ALCOHOLIC BEVERAGE

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BY A PERSON DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE ON A HIGHWAY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 11 through page 2, line 17.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Unlawful possession of open alcoholic beverage container in motor vehicle on highway. (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

(2) This section does not apply to an open alcoholic beverage container:

- (a) in a locked glove compartment or storage compartment;
- (b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;
- (c) behind the last upright seat of a motor vehicle that is not equipped with a trunk;
- (d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or
- (e) in the immediate possession of a passenger:
- (i) of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or
- (ii) in the living quarters of a camper, travel trailer, or motor home.

(3) A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100."

Insert: "NEW SECTION. Section 2. Unlawful consumption of alcoholic beverage while driving or in actual physical control of motor vehicle on highway. (1) A person commits the offense of unlawful consumption of an alcoholic beverage in a motor vehicle if the person knowingly consumes an alcoholic beverage while the person is driving or in actual physical control of a motor vehicle on a highway.

(2) A person convicted of the offense of unlawful consumption of an alcoholic beverage in a motor vehicle shall be fined an amount not to exceed \$100."

Insert: "NEW SECTION. Section 3. Definitions. As used in [sections 1 and 2], the following definitions apply:

(1) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains not less than 0.5% of alcohol by volume.

(2) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more passengers, including the driver.

(3) "Camper" has the meaning provided in 61-1-129.

(4) "Highway" has the meaning provided in 61-1-201, including the shoulders of the highway.

(5) "Motor home" has the meaning provided in 61-1-130.

(6) "Motor vehicle" has the meaning provided in 61-1-102.

(7) "Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that contains any amount of an alcoholic beverage and that is open, has a broken seal, or the contents of which are partially removed or are immediately capable of being consumed.

(8) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while the driver or a passenger is seated in the vehicle, including an unlocked glove compartment."

Insert: "NEW SECTION. Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 61, chapter 8, and the provisions of Title 61 apply to [sections 1 through 3]."

Insert: "NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

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SB 68, introduced bill, be amended as follows:

1. Title, line 5.

Following: "THAT A"

Strike: "PRIOR CONVICTION"

Insert: "CIRCUMSTANCE OR FACT"

2. Title, line 7.

Following: "PLEADED"

Strike: "OR"

Insert: "AND"

Following: "ADMITTED"

Strike: "AND"

Insert: "OR"

3. Page 2, line 3 through line 4.

Following: "EXCEPT" on line 3

Strike: remainder of line 3 through "DESCRIBED" on line 4

Insert: "as provided"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

1/17/2003

SB 24, introduced bill, be amended as follows:

1. Title, line 4.

Following: "COUNTY"

Insert: "OR MUNICIPALITY"

2. Page 1, line 10.

Following: "electronic"

Insert: "county"

3. Page 1.

Following: line 15

Insert: "NEW SECTION. Section 2. Convenience fee for electronic municipal government services. (1) The municipality may charge a convenience fee and may allow municipal departments to collect the convenience fee on selected electronic government services in order to provide funding for the support and furtherance of electronic government services.

(2) As used in this section, "convenience fee" means a fee charged to recover the costs of providing electronic government services."

Renumber: subsequent sections

4. Page 1, line 17.

Following: "instruction."

Insert: "(1)"

5. Page 1.

Following: line 18

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Insert: "(2) [Section 2] is intended to be codified as an integral part of Title 7, chapter 5, part 41, and the provisions of Title 7, chapter 5, part 41, apply to [section 2]."

And, as amended, do pass. Report adopted.

SB 45, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "18-8-212"

Insert: "AND 85-1-219"

2. Page 1.

Following: line 16

Insert: "**Section 2.** Section 85-1-219, MCA, is amended to read:

"85-1-219. State-owned works -- department approval -- bids -- procurement of goods and services. (1)

For all state-owned works constructed, repaired, altered, improved, maintained, rehabilitated, or reconstructed, the department shall:

(a) review and approve all plans and working drawings prepared by engineers or architects, if any;
(b) approve all bond issues or other financial arrangements and supervise and approve the expenditure of all money;

(c) solicit, accept, and reject bids and award all contracts to the lowest qualified bidder, considering conformity with specifications and terms and reasonableness of bid amount;

(d) review and approve all change orders;

(e) accept the works when completed according to approved plans and specifications.

(2) Except as provided in subsection (3), the department shall solicit sealed, competitive bids before awarding a contract under subsection (1) and may award a contract only after receipt of at least one bid, if reasonably available.

(3) The department may negotiate a contract, without competitive bidding, with a contractor qualified to do business in Montana if:

(a) the department rejects all bids for the work;

(b) an emergency threatening life or property exists;

(c) the proposed construction costs are \$50,000 or less;

(d) an exigency exists; ~~or~~

(e) the cost of goods, nonconstruction services, or professional services is \$15,000 or less; or

(f) the cost of architectural, engineering, and land surveying services is \$20,000 or less.

(4) (a) Except as provided in subsection (4)(b), the provisions of Title 18, chapter 2, parts 2 through 4, apply to contracts awarded for construction under this section.

(b) The provisions of Title 18, chapter 2, parts 2 and 3, do not apply to contracts for which the proposed construction costs are \$50,000 or less.

(c) The requirements of Title 18, chapter 4, do not apply to contracts for which the cost of goods or nonconstruction services is \$15,000 or less.

(d) (i) ~~The~~ Except as provided in subsection (4)(d)(ii), the department may contract for professional services by direct negotiation when the cost of professional services covered by the contract does not exceed \$15,000.

(ii) The department may contract for architectural, engineering, and land surveying services by direct negotiation when the cost of the services covered by the contract does not exceed \$20,000.

(iii) The department may not separate service contracts or split or break projects for the purpose of circumventing the provisions of Title 18, chapter 8, part 2."

Renumber: subsequent section

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And, as amended, do pass. Report adopted.

SB 98, introduced bill, be amended as follows:

1. Page 1.

Following: line 19

Insert: "NEW SECTION. Section 2. Coordination instruction. If House Bill No. 51 and [this act] are both passed and approved, then the phrase "a personal-care facility" in subsection (5) of [section 1] must read "an assisted living facility"."

And, as amended, do pass. Report adopted.

SB 114, do pass. Report adopted.

SB 150, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

1/16/2003

SB 105, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

1/16/2003

SJR 3, introduced bill, be amended as follows:

1. Title, page 1, lines 12 and 13.

Following: "REFUNDING" on line 12

Strike: "OR" through "FOR" on line 13

Insert: "OF"

Following: "IS" on line 13

Strike: "SUBSEQUENTLY"

2. Page 2, line 21.

Following: "(3)"

Strike: "at" through "refund"

Insert: "refunding 100% of"

3. Page 2, line 22.

Following: the first "member"

Strike: "or" through "the member"

Insert: "of the Montana National Guard or other reserve component of the United States armed forces"

4. Page 2, lines 22 and 23.

Following: "for the" on line 22

Strike: "subsequent" on line 22 through "year" on line 23

Insert: "term in which the member was called to active duty"

And, as amended, do pass. Report adopted.

ADVERSE COMMITTEE REPORT

JUDICIARY (Grimes, Chairman):

1/17/2003

SB 116, do **not** pass.

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MOTIONS

SB 116 - Senator Grimes moved **SB 116** be taken from Committee Reports and rereferred to the committee on Judiciary. Motion carried.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/16/2003

HB 34, introduced by Jacobson

HB 35, introduced by Jacobson

HB 37, introduced by Sinrud

HB 41, introduced by Noennig

HB 45, introduced by Lawson

HB 91, introduced by Facey

HB 179, introduced by Matthews

HB 182, introduced by Rome

MOTIONS

SB 82 - Senator Kitzenberg moved that Elliott be added as sponsor to **SB 82**. Motion carried.

SB 96 - Senator Kitzenberg moved that Black, Grimes, Keenan, Nelson, Shea and Tester be added as sponsors to **SB 96**. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 226, introduced by DePratu, Bergren, Bookout-Reinicke, Brueggeman, Carney, P. Clark, Cocchiarella, Cooney, Golie, Juneau, Kitzenberg, Laible, Lenhart, Mahlum, McCarthy, Musgrove, Pattison, Pease, Rice, Ripley, D. Ryan, Wilson, Windy Boy, referred to Judiciary.

SB 227, introduced by Wheat, referred to Local Government.

SB 228, introduced by Taylor, DePratu, Grimes, F. Thomas, referred to Business and Labor.

SB 229, introduced by F. Thomas, R. Brown, referred to Business and Labor.

SB 230, introduced by Cromley, referred to Business and Labor.

SB 231, introduced by Cromley, referred to Business and Labor.

The following House bills were introduced, read first time, and referred to committees:

HB 16, introduced by Haines (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 21, introduced by Smith, referred to State Administration.

HB 34, introduced by Jacobson (by request of the Department of Administration), referred to State Administration.

HB 35, introduced by Jacobson (by request of the Department of Military Affairs), referred to Business and Labor.

HB 36, introduced by Lawson (by request of the Department of Administration), referred to Business and Labor.

HB 37, introduced by Sinrud, referred to State Administration.

HB 39, introduced by Gallik (by request of the Department of Military Affairs), referred to State Administration.

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HB 41, introduced by Noennig (by request of the Legislative Council), referred to Legislative Administration.

HB 45, introduced by Lawson (by request of the Department of Administration), referred to Business and Labor.

HB 46, introduced by Haines (by request of the Department of Natural Resources and Conservation), referred to Finance and Claims.

HB 49, introduced by Haines (by request of the Department of Public Health and Human Services), referred to Business and Labor.

HB 50, introduced by Haines (by request of the Department of Public Health and Human Services), referred to Business and Labor.

HB 65, introduced by Matthews (by request of the Department of Labor and Industry), referred to Business and Labor.

HB 91, introduced by Facey, referred to Legislative Administration.

HB 117, introduced by Kaufmann (by request of the Department of Revenue), referred to Business and Labor.

HB 172, introduced by Gallik (by request of the Department of Administration), referred to Business and Labor.

HB 179, introduced by Matthews (by request of the State Auditor), referred to Business and Labor.

HB 182, introduced by Rome (by request of the Department of Commerce), referred to Business and Labor.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Stapleton moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Wheat in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 28 - Senator Mangan moved **SB 28** do pass. After discussion, **SB 28** was moved to the bottom of the second reading board for purpose of amendment.

SB 36 - Senator Grimes moved **SB 36** do pass. Motion carried unanimously.

SB 56 - Senator Keenan moved **SB 56** do pass. Motion carried unanimously.

SB 64 - Senator Keenan moved **SB 64** do pass. Motion carried unanimously.

SB 28 - Senator Perry moved **SB 28**, second reading copy, be amended as follows :

1. Title, line 15 through line 16.

Strike: "INCREASING" on line 15 through "\$30;" on line 16

2. Page 3, line 25.

Strike: "\$30"

Insert: "\$15"

3. Page 3, line 30.

Strike: "\$30"

Insert: "\$15"

Amendment **not** adopted as follows:

Yeas: Bales, Bohlinger, Butcher, Cromley, Curtiss, Ellingson, Esp, Glaser, Grimes, Mahlum, O'Neil, Perry, Ryan,

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Stapleton, Stonington, Thomas, Toole, Zook, Mr. President.
Total 19

Nays: Anderson, Barkus, Black, Cobb, Cocchiarella, Cooney, DePratu, Elliott, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Roush, Schmidt, Shea, Sprague, Squires, Story, Tash, Taylor, Tester, Tropila, Wheat.
Total 31

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 28 - Senator Mangan moved **SB 28** do pass. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 42

Nays: Bales, Glaser, Johnson, McGee, Ryan, Schmidt, Tash, Toole.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Wheat moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 5, requiring 2/3 of the entire Legislature, received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 40 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Curtiss.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 71 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 126 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 152 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Curtiss, Grimes, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 2 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

SB 28 - Senator Zook moved that **SB 28** be taken from third reading and rereferred to Finance and Claims. Motion carried.

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SB 65 - Senator DePratu moved that **SB 65** be taken from the committee on State Administration and referred to the committee on Taxation. Motion carried.

SB 138 - Senator DePratu moved **SB 138** be taken from the committee on Energy and Telecommunications and referred to the committee on Taxation. Motion carried.

ANNOUNCEMENTS

Senator Stapleton introduced the Senate pages, gave a brief overview of their future plans, and thanked them for their work this week.

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, January 20, 2003. Motion carried.

Senate adjourned at 2:39 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
ELEVENTH LEGISLATIVE DAY**

Helena, Montana
January 20, 2003

Senate Chambers
State Capitol

The Senate convened at 1:00 p.m.

MOTIONS

Senator Thomas moved that the Senate proceed to the House of Representatives for the purpose of receiving the address from Montana's U. S. Congressman, The Honorable Dennis Rehberg, and that upon adjournment of the joint session, the Senate will resume. Motion carried. The Senate proceeded to the House of Representatives.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Clark escorted the Senate into the House Chamber.

Speaker Mood introduced Senate President Keenan and yielded the chair to him.

Senate Majority Leader Thomas moved that the body resolve itself into a joint session for the purpose of receiving the address from The Honorable Dennis Rehberg. Motion carried.

Senate Majority Leader Thomas moved that the president be authorized to appoint a committee of four to notify Congressman Rehberg that we are in joint session and ready to receive his address. Motion carried.

The president appointed Senator Stapleton, Senator Cromley, Representative Steinbeisser and Representative Wilson and discharged the committee to escort the Honorable Congressman Rehberg into the house chambers.

The committee escorted Congressman Rehberg into the chambers.

Pastor Sam Hughes of the Calvary Baptist Church gave the invocation, followed by the Pledge of Allegiance.

President Keenan introduced Congressman Rehberg, who gave the following speech to the joint session:

Lt. Gov Ohs, President Keenan, Speaker Mood, friends, guests, my fellow Montanans:

Will Rogers said, " If all Politicians fished instead of spoke publicly, we would be at peace in the world."

Mo Udall, longtime chairman of the House Resources Committee became so exasperated over the lengthy debate one time he said, "Everything that could be said about this issue has already been said on this floor tonight. Unfortunately everyone has not yet said it yet." Nevertheless, it is my privilege to come before you once again as Montana's Congressman to speak about what I feel are Montana's priorities this Congress, and what I will do to accomplish those priorities. Of course this can be, by no means, a complete list of issues I will have to work on on your behalf. Consider that my last opportunity to stand before you in regular session occurred fully six months before September 11,2001 and all that has happened to us since then.

Today we celebrate the life and accomplishments of Martin Luther King. Nearly four decades ago, Dr. King wrote a very polite letter to fellow clergymen who had criticized what he called "civil disobedience." Dr. King wrote: " If I have said anything in this letter that overstates the truth and indicates an unreasonable impatience, I beg you to forgive me. If I

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have said anything that understates the truth and indicates my having a patience that allows me to

settle for anything less than brotherhood, I beg God to forgive me.” So in my remarks this morning, remembering Martin Luther King, I intend neither to overstate nor understate the truth.

Drought Disaster Relief

How often I have heard from farmers and ranchers struggling to provide for their families, scarcely able to pay their bills, hoping against hope that perhaps this will be the year the long drought ends, praying that they will be able to hold on until the disaster does finally end.

And yet, many in Washington say drought relief must wait; that our disaster is not a catastrophe—like a tornado or a flood; that we must first accommodate the real disasters.

If a hurricane is like a broken arm or leg that can be fixed—then continuing drought is like a cancer, destroying the very essence of rural Montana. Small town America is the glue that holds this Nation together.

And the role of the federal government is to assist in times of need, and above all, to provide a lifeboat of opportunity for those struggling against the economic currents that threaten to pull them under.

I will reintroduce my legislation that does just that, by creating a National Drought Advisory Committee, modeled after Montana's.

Thank you, Lt. Governor Ohs, for your outstanding leadership as chairman and you, Senator Story, for your passion as a committee member long before you entered the arena of elective politics.

Crop Insurance

But drought isn't the only problem facing Montana's number one industry. Our Ag. producers are still stuck with a clumsy crop insurance program. These policies must be reformed to better protect producers' investments in the program and to increase protections against manipulation. I also believe it is time to begin the debate on policies to producers of cattle and other livestock to protect Montanans who are struggling to make their living on the family ranch.

The bottom line is that our country has the safest and best quality food at the lowest price—and in order for Americans to continue to enjoy the benefits of this policy, we've got to give our producers the best tools and the support they need.

And while I'll continue to push the federal government to meet its responsibilities to agriculture, our producers must also begin to plan for the future of agriculture. And that future lies in adding value to our raw commodities. That's why I inserted language into the farm bill that establishes a demonstration program to give agriculture producers who want it, much-needed technical and financial assistance in starting their own value-added endeavors. Our producers need to begin to move from being price takers to being price makers, and encouraging value-added agriculture opportunities will provide a real shot in the arm to Montana's economy.

Energy Policy

But no matter what we do to stimulate Montana's economy – none of it will matter if America does not have an energy policy. And as we enter 2003, I'm optimistic you and I will finally see a comprehensive energy policy signed into law this

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session of Congress.

There is an old Chinese proverb that says: "The best time to plant a tree is twenty years ago, but the second best time is today." We needed a comprehensive energy plan twenty years ago. We cannot afford to wait until tomorrow. Between January and June of last year, the United States spent \$2.3 billion on Iraqi oil imports, effectively funding Saddam Hussein's war machine.

I was disappointed certain individuals in the Senate were unable to agree with the terrific energy bill we passed in the House. However, I've learned to take heart in something Mike Mansfield once said: "You can do anything in the Senate, provided you have the patience and live long enough."...(The U.S. Senate)

So this session I'm optimistic we'll live long enough to see them act on the progress we made. As a member of the House Resources Committee, I intend to press Congress to pick up where the last session left off, and pass a comprehensive energy policy that addresses ways to improve domestic production, as well as improve access to reliable electricity, new technologies, increased energy efficiency and increasing funding for low-income energy assistance. The bill must include measures such as funding clean coal technology and encouraging alternatives like ethanol – provisions that are good for Montana, and good for our nation. And we must practice energy conservation and any energy bill has to include incentives to do just that. I have spoken of efforts to improve Montana's economy by boosting our number one industry-agriculture, and by enacting an energy bill that utilizes many of Montana's natural resources, such as coal and timber. Now let me turn to another task that will benefit Montana's families.

Tax Relief

When I last spoke to you two years ago, I pledged I would support the president's call for enacting tax relief. I'm happy to report Congress listened to that call and to her people and responded by lowering tax rates, doubling the child credit, and reducing the death tax. But a down-payment alone is not enough to provoke an effective economic stimulus in Montana or the rest of the nation. For the sake of long-term growth and to help Montanans plan for the future, we need to make this tax relief permanent

In unveiling his own tax-relief proposal 40 years ago this month, President John F. Kennedy told us: "No doubt a temporary tax cut could provide a spur to our economy – but a long-run problem, compels a long-term solution." President Kennedy knew then that good jobs depend on sound tax policy. He reminded us that when you need to stimulate the economy you don't do it with more government spending, or even necessarily, the same government spending, you do it by allowing people to keep more, of what they earn.

Some call this sound fiscal policy. I would suspect you and I would call it common sense. Like President Kennedy, I believe in the philosophy that government doesn't create jobs - people and small business do. Families and small businesses prosper when government entrusts them with the liberties found in the American dream – liberties that allow Montanans to reach as high as their God-given talents will take them. After all, Montana is too great for small dreams.

Prescription Drug Coverage, Medicare

However, Montanans also know that economic security can vanish in an instant without health security. This past session of Congress, the House approved legislation I supported to help small businesses offer health benefits to employees through the creation of association health plans.

The House also passed legislation to create a prescription drug benefit and to allow Americans to import safe, less expensive medicines from Canada or Europe. This session I'm optimistic we can persuade the Senate to pass these bills

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as well.

I'm also encouraging my colleagues in Congress this year to again join me in enacting legislation that will give seniors a sound and modern Medicare system that reflects the changes in health care that have occurred in the last 35 years. This system must include a common sense prescription drug plan for our seniors.

Education, IDEA

Montana families also need a sound and modern education system for our children. Last session, as promised, we made education our #1 priority by enacting the "No child left behind" measure. That legislation included an unprecedented 12.5% funding increase for federal programs while providing more flexibility for local school districts.

But all is not right, nor just. The federal government must honor the promise it made to states under IDEA – the Individuals with Disabilities Act, which directs Federal dollars to students with special needs.

As you probably know, the federal government promised 25 years ago to pay 40% of the costs for special needs students. So far, the federal government has never contributed more than 15% amounting to yet another under-funded mandate on our local school districts.

In one year, Montana was short-changed nearly \$40 Million in IDEA funding. This is unacceptable. Last year we tried unsuccessfully to amend the President's education bill to mandate full funding. While we were successful in securing an additional \$4 million dollars, the government is still a long way from paying their fair share. As this program is up for re-authorization this year, I will continue to fight for full funding.

Highway Construction

I think it was Al Capone who said: You can get much further with a kind word and a gun than you can with a kind word alone." Well, I've discovered that in Congress, you can get much further with a kind word and determination than with a kind word alone. And as a member of the House Transportation Committee, I'm determined to see increased highway funding for Montana.

Early this year, we will begin work on the re-authorization of TEA-21 and re-authorization of our Nation's highway construction funding. The results of this are far reaching. For instance, for every billion dollars spent on our highways, it results in over 42,000 well-paying jobs. Here at home, highway investments can help stimulate our own economy. Better roads, better bridges, increased transit options, result in increased productivity by decreasing travel time, encouraging development, and above all, result in an economic return of \$6 for every \$1 spent.

Concluding Remarks

I get asked a lot in Washington what it's like to represent such a large district. My most common answer is that it is 56 counties – with 56 unique personalities and 56 different cultures.

Baker is different than Libby. Plentywood has different hopes and dreams than Dillon.

But more than anything, I have come to the conclusion that our state's greatest resource is not coal or timber or livestock or even its wealth of minerals. Our greatest resource is not our breathtaking mountains in the west nor our amber waves of grain in the east. Montana's greatest resource is us. The diversity, independence, and faith of our citizens, young and old, have made Montana this Nation's finest place to live. Compared to other states, our numbers are small in quantity,

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but glowingly large in quality.

That's why, when it comes to the cherished goal of a state bursting with opportunities, reaching for its future with confidence, there really are no Republicans or Democrats or Independents...just Montanans.

Let us therefore look to the future with confidence. To paraphrase Ronald Reagan, "How can we not believe in the greatness of Montana?" In our shared belief that Montana is America's best state in which to live, how can we believe anything less than that Montana's greatest days lie ahead? Thank you for giving me the opportunity to represent you in the United States Congress. Working together we can, and we will, build a more Secure Future for All Montanans. May God Bless you and may God Bless our wonderful State.

The President thanked Congressman Rehberg and directed the escort committee to escort Congressman Rehberg from the joint session.

Senate Majority Leader Thomas moved that the joint session of the 58th Legislature, convened to receive the address from Congressman Rehberg, be adjourned. Motion carried.

Joint session adjourned at 1:27 p.m.

Senate reconvened at 1:31 p.m. President Keenan presiding.

Roll Call. All members present except Senators Cooney and Tash, excused. Quorum present.

The presiding officer has authenticated the daily journal for the tenth legislative day.

SPECIAL ORDERS OF THE DAY

Senators Thomas, Nelson, Ryan and Grimes gave a short narration in recognition of Martin Luther King, Jr.

REPORTS OF STANDING COMMITTEES

BILLS REPORT

Correctly printed: **SB 226, SB 227, SB 228, SB 229, SB 230, SB 231.**

Correctly engrossed: **SB 24, SB 30, SB 39, SB 45, SB 68, SB 98.**

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

1/16/2003

SB 83, do pass. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

1/20/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 5:00 p.m., Friday, January 17, 2003:

TITLE

NAME

Pages:

Tess Ritter, Rudyard, MT
Vanessa Jones, Conrad, MT
Rebecca Wahl, Cut Bank, MT

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Robert Price, Buffalo, MT
Larisa Springer, Missoula, MT
Abigail Redfern, Missoula, MT
Danielle Josephsen, Conrad, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, January 20, 2003:

<u>TITLE</u>	<u>NAME</u>	<u>SPONSOR</u>
Pages:	Jennie Berg, Butte, MT	Senator Shea
	Abbey Joyce, Butte, MT	Senator Shea
	Sarah Knobel, Conrad, MT	Senator Black
	Rebekah Grewett, Helena, MT	Senator Cobb
	Abigail Horan, Lewistown, MT	Senator Butcher
	Peter Nistler, Helena, MT	Senator Anderson

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/17/2003

HB 1, introduced by Lewis
HB 31, introduced by Waitschies
HB 38, introduced by A. Olson
HB 59, introduced by Erickson
HB 68, introduced by Kaufmann
HB 72, introduced by Mendenhall
HB 104, introduced by Bergren
HB 162, introduced by Callahan
HB 165, introduced by Lake

MOTIONS

SB 61- Senator Tester moved that Senators Bohlinger, Ellingson, Kitzenberg, Mangan, Ryan, Schmidt, Tropila, Representatives Bergren, Callahan, Dickenson, Franklin, Galvin-Halcro, Golie, Jacobson, Keane, Matthews, Ryan, Smith, Wagman, Wilson and Witt be added as sponsors to **SB 61**. Motion carried.

SB 214 - Senator Grimes moved **SB 214** be taken from the committee on Legislative Administration and rereferred to the committee on State Administration. Motion carried.

MESSAGES FROM THE FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 232, introduced by Mahlum, referred to Business and Labor.
SB 233, introduced by Cobb, referred to Natural Resources.
SB 234, introduced by Cobb, referred to Energy and Telecommunications.

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SB 235, introduced by Bohlinger, referred to Business and Labor.

SB 236, introduced by F. Thomas, Haines, Cocchiarella, Mahlum, Wanzenried, referred to Business and Labor.

SB 237, introduced by Bales, Black, Butcher, Curtiss, Devlin, Glaser, Hansen, Laible, Nelson, A. Olson, Ripley, Taylor, referred to Agriculture, Livestock and Irrigation.

SB 238, introduced by Mangan, referred to Judiciary.

SB 239, introduced by Mangan, referred to State Administration.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 9, introduced by Nelson, Musgrove, Bales, Bergren, Butcher, P. Clark, Franklin, Galvin-Halcro, Hansen, Hedges, Keane, Kitzenberg, Lenhart, McCarthy, McNutt, Newman, Pattison, D. Ryan, Shea, Smith, Tester, Waitschies, Wilson, Windy Boy, Witt, referred to Natural Resources.

The following House bills were introduced, read first time, and referred to committees:

HB 1, introduced by Lewis, (by request of the Legislative Council), referred to Finance and Claims.

HB 31, introduced by Waitschies, Devlin, Zook (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.

HB 38, introduced by A. Olson, referred to State Administration.

HB 59, introduced by Erickson (by request of the Department of Revenue), referred to Taxation.

HB 68, introduced by Kaufmann (by request of the Department of Transportation), referred to Highways and Transportation.

HB 72, introduced by Mendenhall (by request of the Department of Labor and Industry), referred to Business and Labor.

HB 104, introduced by Bergren (by request of the State Auditor), referred to Business and Labor.

HB 162, introduced by Callahan (by request of the Department of Justice), referred to Finance and Claims.

HB 165, introduced by Lake (by request of the Department of Administration), referred to Business and Labor.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 105 - Senator Johnson moved **SB 105** do pass. Motion carried unanimously.

SB 133 - Senator Zook moved **SB 133** do pass. Motion carried unanimously.

SB 114 - Senator Johnson moved **SB 114** do pass. Motion carried unanimously.

SB 144 - Senator Barkus moved **SB 144** do pass. Motion carried unanimously.

Senator Cooney present at this time.

SB 150 - Senator Johnson moved **SB 150** do pass. Motion carried unanimously.

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Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 36 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Tash.

Total 1

SB 56 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Tash.

Total 1

SB 64 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton,

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Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Tash.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, January 21, 2003. Motion carried.

Senate adjourned at 2:13 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWELFTH LEGISLATIVE DAY**

Helena, Montana
January 21, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Father Steve Brehe of St. Peter's Episcopal Parish in Helena. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Butcher and Tash, excused. Quorum present.

The presiding officer has authenticated the daily journal for the eleventh legislative day.

Senator Butcher present at this time.

COMMUNICATIONS AND PETITIONS

January 17, 2003

Bob Keenan, President
Montana Senate
State Capitol
Helena, MT 9620

Dear President Keenan:

The Committee on Committees has made the following appointments effective immediately, as authorized by statute:

Legislative Council

Senator Duane Grimes
Senator Fred Thomas
Senator Vicki Cocchiarella
Senator Brent Cromley

Environmental Quality Council

Senator Dan McGee
Senator Bob Story

Legislative Audit committee

Senator John Esp

Legislative Consulting Panel to Microbusiness Advisory Council

Senator Don Ryan
Senator Sherm Anderson

Capitol Complex Advisory Council

Senator Duane Grimes

Sincerely,

Senator Tom Zook
Chair, Committee on Committees

REPORTS OF STANDING COMMITTEES

BILLS REPORT

Correctly printed: **SB 232, SB 233, SB 234, SB 235, SB 236, SB 237, SB 238, SB 239, SJR 9.**

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BUSINESS AND LABOR (Mahlum, Chairman):
SB 108, introduced bill, be amended as follows:

1/21/2003

1. Title, page 1, line 20.
Following: "SETTLEMENTS"
Strike: "AND LUMP-SUM ADVANCE PAYMENTS"

2. Page 11, line 25.
Following: "settlements"
Strike: "and lump-sum advances"

3. Page 11, line 26.
Following: "settlements"
Strike: "and lump-sum advances"

4. Page 11, line 30.
Following: "settlement"
Strike: "or lump-sum advance"

And, as amended, do pass. Report adopted.

SB 143, introduced bill, be amended as follows:

1. Page 2, line 21.
Following: "agreement"
Insert: "and shall notify the commissioner on March 1 of each year in which the charitable organization issues qualified charitable gift annuities"

2. Page 2, line 28.
Following: "except"
Insert: ": (a) within 30 days of receipt of a written request, to provide the commissioner with financial documents verifying information that was provided to the commissioner in the notice; or
(b)"

3. Page 3, line 11.
Following: "20," in two places
Strike: "part 3,"

And, as amended, do pass. Report adopted.

SB 180, introduced bill, be amended as follows:

1. Title, page 1, line 6.
Strike: "6"
Insert: "4"

2. Page 1, line 11.
Strike: "6"
Insert: "4"

And, as amended, do pass. Report adopted.

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 21, 2003

NATURAL RESOURCES (Tash, Chairman):
SB 88, introduced bill, be amended as follows:

1/20/2003

1. Page 1, line 13.

Following: "85-2-521."

Insert: "The code commissioner shall change any references to this chapter that are within 85-2-521 to "Title 85, chapter 2"."

And, as amended, do pass. Report adopted.

SB 103, introduced bill, be amended as follows:

1. Title, line 7.

Following: " ;"

Insert: "PROVIDING FOR THE REPAYMENT OF CONTINGENT FUND TRANSFERS;"

2. Title, line 8.

Strike: "SECTION"

Insert: "SECTIONS 75-10-621, 75-10-704, AND"

Following: "DATE"

Insert: "AND A CONTINGENT TERMINATION DATE"

3. Page 1, line 12.

Insert: "**Section 1.** Section 75-10-621, MCA, is amended to read:

"75-10-621. Hazardous waste/CERCLA special revenue account. (1) There is a hazardous waste/CERCLA special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the hazardous waste/CERCLA account:

(a) revenue obtained from the interest income of the resource indemnity trust fund under the provisions of 15-38-202, together with interest accruing on that revenue;

(b) all proceeds of bonds or notes issued under 75-10-623 and all interest earned on proceeds of the bonds or notes; and

(c) revenue from penalties or damages collected under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended in 1986 (CERCLA).

(3) Appropriations may be made from the hazardous waste/CERCLA account only for the following purposes and subject to the following conditions:

(a) funds are statutorily appropriated, as provided in 17-7-502(4), to the CERCLA match debt service account necessary to make principal, interest, and premium payments due on CERCLA bonds;

(b) not more than one-half of the interest income received for any biennium from the resource indemnity trust fund may be appropriated on a biennial basis for:

(i) implementation of the Montana Hazardous Waste Act, including regulation of underground storage tanks and the state share to obtain matching federal funds;

(ii) implementation of Title 75, chapter 10, part 6, pertaining to state assistance to and cooperation with the federal government for remedial action under CERCLA;

(iii) expenses of the department in administering and overseeing the implementation of Title 75, chapter 10, parts 4 and 6; and

(iv) state expenses relating to investigation and remedial action for any hazardous substance defined in 75-10-602; and

(c) to the extent funds are available after the appropriations in subsections (3)(a) and (3)(b), the department may, as appropriate, seek authorization from the legislature or, when the legislature is not in session, through the budget amendment process provided for in Title 17, chapter 7, part 4, to spend funds for:

(i) state participation in remedial action under section 104 of CERCLA;

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- (ii) state costs for maintenance of sites at which remedial action under CERCLA has been completed; and
- (iii) the state share to obtain matching federal funds for underground storage tank corrective action.

(4) For the purposes of subsection (3)(c), the legislature finds that a need for state special revenue to obtain matching federal funds for underground storage tank corrective action or for remedial action under section 104 of CERCLA constitutes a serious unforeseen and unanticipated circumstance for the purpose of meeting the definition of "emergency" in 17-7-102. The legislature further finds that the inability of the department to match the federal funds as the funds become available would seriously impair the functions of the department in carrying out its responsibilities under Title 75, chapter 10, parts 4 and 6.

(5) There is no dollar limit to the hazardous waste/CERCLA account. ~~Unused~~ Except as provided in subsection (6), unused balances remain in the account until appropriated by the legislature for the purposes specified in this section.

(6) (a) If funds are transferred from the orphan share fund to the hazardous waste/CERCLA account pursuant to 75-10-743(10), the department shall, subject to the limitations in subsections (6)(b) and (6)(c) of this section, at the end of the fiscal year in which the transfer is made and in each subsequent fiscal year, transfer from the hazardous waste/CERCLA account to the orphan share fund the unencumbered amount remaining in the hazardous waste/CERCLA account at the end of the fiscal year that is in excess of the amount appropriated for the next fiscal year from the hazardous waste/CERCLA account.

(b) The total amount transferred pursuant to subsection (6)(a) may not exceed the total amount transferred to the hazardous waste/CERCLA account pursuant to 75-10-743(10).

(c) Subsection (6)(a) does not apply to the proceeds of bonds or notes sold pursuant to 75-10-623, to interest on the proceeds of those bonds or notes, or to appropriations of those proceeds or interest."

Insert: "Section 2. Section 75-10-704, MCA, is amended to read:

"75-10-704. Environmental quality protection fund. (1) There is in the state special revenue fund an environmental quality protection fund to be administered as a revolving fund by the department. The department is authorized to expend amounts from the fund necessary to carry out the purposes of this part.

(2) ~~The~~ Except as provided in subsection (9), the fund may be used by the department only to carry out the provisions of this part and for remedial actions taken by the department pursuant to this part in response to a release of hazardous or deleterious substances.

(3) The department shall:

(a) except as provided in subsection (7), establish and implement a system, including the preparation of a priority list, for prioritizing sites for remedial action based on potential effects on human health and the environment; and

(b) investigate, negotiate, and take legal action, as appropriate, to identify liable persons, to obtain the participation and financial contribution of liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(4) There must be deposited in the fund:

(a) all penalties, forfeited financial assurance, natural resource damages, and remedial action costs recovered pursuant to 75-10-715;

(b) all administrative penalties assessed pursuant to 75-10-714 and all civil penalties assessed pursuant to 75-10-711(5);

(c) funds appropriated to the fund by the legislature;

(d) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

(e) funds received from the interest income of the fund;

(f) funds received from settlements pursuant to 75-10-719(7); and

(g) funds received from the interest paid pursuant to 75-10-722.

(5) Whenever a legislative appropriation is insufficient to carry out the provisions of this part and additional money remains in the fund, the department shall seek additional authority to spend money from the fund through the budget amendment process provided for in Title 17, chapter 7, part 4.

(6) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department may apply to the governor for a grant from the environmental contingency account established pursuant to 75-1-1101.

(7) (a) There is established a state special revenue account for all funds donated or granted from private parties

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to remediate a specific release at a specific facility. There must be deposited into the account the interest income earned on the account. A person is not liable under 75-10-715 solely as a result of contributing to this account.

(b) Funds donated or granted for a specific project pursuant to this subsection (7) must be accumulated in the fund until the balance of the donated or granted funds is sufficient, as determined by the department, to remediate the facility pursuant to the requirements of 75-10-721 for which the funds are donated.

(c) If the balance of the fund created in this subsection (7), as determined by the department pursuant to the requirements of 75-10-721, is not sufficient to remediate the facility within 1 year from the date of the initial contribution, all donated or granted funds, including any interest on those donated or granted funds, must be returned to the grantor.

(d) If the balance for a specific project is determined by the department to be sufficient to remediate the facility pursuant to the requirements of 75-10-721, the department shall give that site high priority for remedial action, using the funds donated under this subsection (7).

(e) This subsection (7) is not intended to delay, to interfere with, or to diminish the authority or actions of the department to investigate, negotiate, and take legal action, as appropriate, to identify liable persons, to obtain the participation and financial contribution of liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(f) The department shall expend the funds in a manner that maximizes the application of the funds to physically remediating the specific release.

(8) (a) A person may donate in-kind services to remediate a specific release at a specific facility pursuant to subsection (7). A person who donates in-kind services is not liable under 75-10-715 solely as a result of the contribution of in-kind services.

(b) A person who donates in-kind services with respect to remediating a specific release at a specific facility is not liable under this part to any person for injuries, costs, damages, expenses, or other liability that results from the release or threatened release, including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss.

(c) Immunity from liability, pursuant to subsection (8)(b), does not apply in the case of a release that is caused by conduct of the entity providing in-kind services that is negligent or grossly negligent or that constitutes intentional misconduct.

(d) When a person is liable under 75-10-715 for costs or damages incurred as a result of a release or threatened release of a hazardous or deleterious substance, the person may not avoid that liability or responsibility under 75-10-711 by subsequent donations of money or in-kind services under the provisions of subsection (7) and this subsection (8).

(e) Any donated in-kind services that are employed as part of a remedial action pursuant to this subsection (8) must be approved by the department as appropriate remedial action.

(9)(a) If funds are transferred from the orphan share fund to the environmental quality protection fund pursuant to 75-10-743(10), the department shall, subject to the limitation in subsection (9)(b) of this section, at the end of the fiscal year in which the transfer is made and in each subsequent fiscal year, transfer from the environmental quality protection fund to the orphan share fund the unencumbered amount remaining in the environmental quality protection fund at the end of the fiscal year that is in excess of the amount appropriated for the next fiscal year from the environmental quality protection fund.

(b) The total transferred pursuant to subsection (9)(a) may not exceed the total amount transferred to the environmental quality protection fund pursuant to 75-10-743(10)."

Renumber: subsequent sections

4. Page 3, line 9.

Strike: "[section 2]"

Insert: "[section 4]"

5. Page 4.

Following: line 3

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Insert: "NEW SECTION. Section 6. Contingent termination. If 75-10-743 terminates June 30, 2005, then [sections 1 and 2] terminate June 30, 2005."

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman): 1/20/2003
SB 94, do pass. Report adopted.
SB 111, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman): 1/21/2003
SB 61, do pass. Report adopted.
SB 117, do pass. Report adopted.
SB 132, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 1/20/2003

HB 29, introduced by A. Olson
HB 43, introduced by Cohenour
HB 48, introduced by Newman
HB 58, introduced by Erickson
HB 62, introduced by Lehman
HB 67, introduced by Kaufmann
HB 69, introduced by Smith
HB 70, introduced by Parker
HB 106, introduced by Erickson

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 240, introduced by Stonington, referred to Natural Resources.
SB 241, introduced by Shea, referred to Business and Labor.
SB 242, introduced by Perry, Black, R. Brown, Cobb, DePratu, Kitzenberg, Lindeen, McGee, McNutt, Nelson, Pease, Peterson, Roush, Shea, Sprague, Stonington, Tester, F. Thomas, Wagman, Wheat, Wilson, Younkin, referred to Agriculture, Livestock and Irrigation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Stonington in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Tester excused at this time.

SB 24 - Senator Mangan moved **SB 24** do pass. Motion carried with Senators Elliott, Sprague and Taylor voting nay.

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Senator Tester present at this time.

SB 30 - Senator O'Neil moved **SB 30** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Ryan, Sprague, Stapleton, Story, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 28

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Schmidt, Shea, Squires, Stonington, Tester, Toole, Wheat.
Total 21

Absent or not voting: None.
Total 0

Excused: Tash.
Total 1

SB 45 - Senator Gebhardt moved **SB 45** do pass. Motion carried unanimously.

SB 68 - Senator Cromley moved **SB 68** do pass. Motion carried unanimously.

SB 83 - Senator McGee moved **SB 83** do pass. Motion carried unanimously.

SB 98 - Senator Mangan moved **SB 98** do pass. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Stonington moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 105 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Tash.

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Total 1

SB 114 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Tash.

Total 1

SB 133 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Tash.

Total 1

SB 144 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Tash.
Total 1

SB 150 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Tash.
Total 1

MOTIONS

SB 30 - Senator Zook moved that **SB 30** be taken from third reading and rereferred to the committee on Finance and Claims. Motion carried as follows:

Yeas: Barkus, Black, Butcher, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 37

Nays: Anderson, Bales, Bohlinger, Cobb, Curtiss, DePratu, McGee, O'Neil, Perry, Stapleton, Taylor, Thomas.
Total 12

Absent or not voting: None.
Total 0

Excused: Tash.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved the Senate stand in recess until the hour of 6:00 p.m. this legislative day. Motion carried.

Senate recessed at 2:33 p.m.

Senate reconvened at 6:10 p.m. President Keenan presiding.

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TWELFTH LEGISLATIVE DAY - JANUARY 21, 2003

MOTIONS

Majority Leader Thomas moved that the Senate recess and proceed to the House of Representatives for the Governor's State of the State address. He further moved that upon adjournment of the joint session, the Senate will adjourn until 1:00 p.m., Wednesday, January 22, 2003. Motion carried.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Clark escorted the Senate into the House Chamber.

Speaker Mood introduced President Keenan and yielded the chair to him.

Senate Majority Leader Thomas moved that the President appoint an escort committee of four to notify the Governor that the Senate and House of Representatives are in joint session and ready to receive her State of the State address. Motion carried.

The President appointed Senator Sprague, Senator Nelson, Representative Andersen and Representative Clark and discharged them to escort the Governor to the House chamber.

The colors were posted by Captain Flaherty and members of the Montana National Guard. President Keenan led the joint session in the Pledge of Allegiance.

Sergeant-at-arms Clark escorted the members of the National Guard from the chamber.

Invocation was given by Joe Morstein of Dillon, brother of Governor Martz.

Sergeant-at-arms Clark admitted the escort committee and Governor Martz into the House chamber. President Keenan introduced Governor Martz to the joint session, and the Governor gave the following speech:

Thank you very much. President Keenan, Speaker Mood, Lt. Governor Ohs, Tribal Chairmen, Distinguished members of the House and Senate, fellow elected officials, honored guests, my fellow Montanans:

What an honor and privilege it is to address you tonight to discuss our administration's continued commitment to strong families, faith in each other, freedom for all, and a prosperous future.

We are in a dynamic and changing time.

While our nation experiences the continued challenges of an economic recession... Montana is moving forward.

Granted, we have our differences and problems to solve. It's that diversity that makes us strong. But first and foremost, we have much to be thankful for.

I am so thankful for family. Montana's first family - Harry, Justin, Stacey, my mom and dad in Billings, and my brother Joe, who has joined me here this evening. I'm thankful for friends, neighbors and our fellow Montanans.

We are so blessed in this Montana with a strong work ethic and resilience demonstrated by our dedicated public servants.

We are blessed with great teachers, whose hard work ensures that our children receive an outstanding education, and our public and private schools of higher education are recognized for their cutting edge research and programs.

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We are blessed with quality medical care for our citizens.

We are blessed with outstanding military personnel, police, EMT's, fire fighters and others who work every single day to keep us safe and protect our freedom at home and abroad. To all these men and women, we extend a very special thanks.

We are blessed with great athletes like our Cats and our Griz, who are among the best in the country and... our Fighting Saints are Number One!

Finally, and most importantly, we have a great faith in each other.

Are we blessed? You bet we are. Because we're Montanans... first, most and always.

We are gathered in this chamber as representatives of the people.

And while we come with different ideas and different views, I have faith that we will find the common ground and build a better future for our Montana families.

That is what the people expect of us. We owe it to them – and ourselves.

Our job is to find solutions – not place blame.

We are faced with a daunting task. But I have faith that we will prevail... because, no matter our differences, we are all Montanans.

Despite the budget clouds we face together, there are brighter days in the forecast.

State of the Economy

For example, Montana's unemployment rate stood at only 4.4% in November – well below the national average of six percent and the lowest for a November in 30 years. And wages rose over 4% - nearly double the rate of inflation.

Job growth in Montana is well ahead of the national economy. In fact, 9,000 new jobs were created in the state since November of 2001. And, according to **economy.com**, we now rank 4th nationally in projected job growth.

Even when faced with our budget difficulties, Montana's economy as a whole reflects our character to persevere. We will move our economy forward. We're making progress... and why?

Because we have a workforce that is prepared for the jobs of the future.

Because we have the foresight and the commitment of individuals in this room who know that we need to create an environment for business to grow – and for individuals to prosper.

Because we have a can-do attitude. Montanans can beat the odds... and turn that attitude into action.

And we must do more.

Because, when it comes to our economy, "good enough" is never enough. Our unemployment rate may well be only 4.4%, but for those who are unemployed it is still 100%.

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And many Montanans are still underemployed. These are highly skilled workers, available and ready for good jobs. But we need the jobs here that match those skills.

Because Montanans are what make Montana great.

So, on their behalf, just as Lewis and Clark began their journey 200 years ago, together, let us take this legislative journey – confident that our state will be better for the efforts we undertake today.

And if the past is any indication... the ingenuity, strength, and fortitude of Montanans will ensure that our future is bright.

Economic Development

When I talked about the state of our state two years ago, I told you that government can no longer be a barrier to business, and since then, we have put the full force of my office behind ensuring that businesses are not hindered, but instead assisted by their government.

With your support, we reorganized the Department of Commerce to be more business friendly, and with your support, we created the Governor's Office of Economic Opportunity.

With the framework for change in place, we are creating the government environment necessary for businesses to stay and grow here... because government doesn't create jobs, people do.

We've teamed up with State Auditor John Morrison to encourage more venture capital investment in our state.

We redesigned our business website, **bizmt.com**, to provide critical information to the business community... and through **discoveringmontana.com** you can register your business through Secretary of State Bob Brown's office, and file your taxes with the Department of Revenue.

Why is this important? Because, in this era of dramatic change and e-commerce, information must be readily available.

This technology eliminates the barriers of time and distance and draws us even further into the world economy. And our global opportunities are expanded through the work of our state trade representatives in Japan and Taiwan.

Companies like Smith Equipment of Belgrade and MSE Technologies of Butte have grown their businesses with the expertise of these professionals.

And, along with Senator Jon Tester and others, companies like Timeless Seeds of Conrad are marketing organic Ag products to our Pacific Rim neighbors as well, and have established Montana as the premier source for those goods.

We have a wonderful relationship with our neighbors in Taiwan, and we are honored to have with us this evening Jack Chiang, who is the director general of the Taipei Economic and Cultural Affairs Office in Seattle. Please welcome Mr. Chiang.

Another element of economic progress is tourism. Out-of-state travelers add nearly ½ million dollars per day to our state's economy. That's powerful economic activity.

I want to thank those Montanans involved with tourism and recreation who had the foresight to plan ahead and identify efforts to improve Montana's economy.

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Our economic development efforts are sharply focused, and we have outlined major initiatives for our state in the coming years.

These initiatives are built on hard work – not quick fixes. They are crafted with an eye toward what Montana should look like in two decades... not just two years.

With your support, we will move Montana's economy forward.

First, we'll focus our economic improvement resources on those industries that bring a competitive advantage to our great state.

We'll provide our citizens with the training needed to be even more productive workers, earning higher wages.

We'll focus on strengthening relationships between private industry, the university system and government to meet the needs of our business community.

And, we must create a competitive tax and regulatory structure to ensure Montana businesses remain here and grow, because as businesses prosper... Montana prospers.

In order to accomplish these goals, I ask you to pass four bills.

The first, requested by Senator Royal Johnson and presented by Representative Monica Lindeen, will enhance the ability of businesses to fund work-force training.

Senate Bill 115, sponsored by Senator Dale Mahlum, will extend the statutory appropriation for key economic development programs.

Senate Bill 131, sponsored by Senator Greg Barkus, provides better access to the dollars needed for businesses to expand by allowing the Board of Investments to better support local economic development organization and local revolving loan programs.

House Bill 76, sponsored by Representative Joe McKenney, helps state and local governments create a truly regional approach to job growth.

Montana is a state in transition. But transition does not mean we leave behind the industries that brought us here.

Transition means transformation. We are transforming our traditional industries to a new economic model, a model that is built on the creativity of our people and the responsible use of the resources God gave us.

And, we are attracting new partners. Partners who seek a location with a quality workforce, good schools, safe communities, affordable energy, efficient government and quality medical care.

One of those businesses is Anheuser Busch. They have made a commitment to provide top quality barley for their products – and thanks to the concerted efforts of state and local governments, they are now sourcing that barley in Sidney.

And there are others. Companies like Montana Flour and Grains in Choteau, John R. Daily in Missoula, and Western Sugar in Billings are providing quality jobs as well.

As we support existing businesses, we also welcome new ones. Companies such as the Montana Shepherd's Market in Hamilton, Montana Legend Brand Meats in Roscoe, and Montana Natural Lamb in Reedpoint are joining with us

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to develop innovative value-added ventures all across Montana.

These businesses not only process the fruits of our land, but the products of our peoples' hard work as well.

And, tonight, after more than a year of work by a new business to Montana, in coordination with the Montana Department of Agriculture, the Governor's Office of Economic Opportunity, the Departments of Commerce, Natural Resources; Environmental Quality; Transportation, Fish, Wildlife and Parks and local economic development groups, the City of Great Falls, Cascade County and our office, I'm excited to announce that Froedtert Malt, a Division of International Malting Company, LLC has made the decision to locate a malt facility in Great Falls, Montana! This is a \$75 million project with a 16-million bushel capacity. The facility will have an annual impact of \$64 million to the state's Ag economy, bringing good-paying jobs to Great Falls, Montana.

Please join me in welcoming David Brunette, the company's director of manufacturing operations, and in thanking International Malting Company for choosing Great Falls as their business home. The commitment of the community and state and local governments to this project truly show that hard work and cooperation pay off for the citizens of our great state.

Natural Resources

And, as we work to strengthen our economy, we will continue to support our traditional industries - those that support our logging and mining families, our farmers and ranchers.

We will not forget the industries that built this state, and we are working closely with President Bush to bring common sense back to forest management. We must manage our forests to reduce the risk of catastrophic fires. We will achieve that goal by giving the right tools to the forest managers and private businesses. In the process, we will bring back good logging jobs to communities like Hamilton and Stevensville, Seeley Lake and Frenchtown.

As chair of the Western Governors Association, I am bringing a Healthy Forest Summit to Montana in June. Western governors will come together to focus on a path we should take to improve the health of our forests and the health of our communities.

We must also be a part of our Nation's energy solutions, and we are actively seeking ways to utilize our resources in an environmentally responsible manner.

I support the responsible development of coal bed natural gas, and I am confident that all stakeholders will work together to ensure that it's done right.

In the last year we have seen plans to develop power plants in Great Falls, Butte and Roundup that will create jobs and provide additional energy to Montana and our country. We also received the patent to the Otter Creek Tracts - that are a source of quality coal. I have established an internal working group to address the issues and opportunities surrounding coal development on those tracts, while maximizing revenues for our school children from their responsible development.

Two years ago, plans were in motion to ban all snowmobiles from Yellowstone National Park. Since then, we have worked with the Bush Administration to allow cleaner, quieter snowmobiles back in the Park so we can all experience the beauty of this national treasure in its winter splendor while protecting its incredible resources.

Tax Reform

As we continue to make room for both traditional businesses and the companies of a new economy, we must recognize that our current tax structure overly burdens both.

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Two years ago, I said we would work to make Montana's tax structure conducive to job growth and economic success. Tonight I am asking for your passage of our tax reform proposal that restructures our tax policy and lets our visitors pay their share.

As you know, Montana has one of the highest capital gains tax rates and the highest stated income tax rate in the nation. Our plan reduces capital gains rates, encouraging more investment in Montana.

Our plan reduces personal income taxes by an average of 10 percent for all classes of Montana taxpayers, so hardworking families can keep more of what they earn.

New Mexico's new governor - Democrat Bill Richardson - is calling for cuts to their 8.2% income tax rate, saying it's too high. If their 8.2 is too high, what does that say about our 11 percent?

We will offset those tax reductions with a limited tax on certain items that will be paid in part by Montanans, but to a large degree by nonresidents, who enjoy the treasures of our great state.

Our plan also includes a voter-approved local-option tax to help communities relieve the property tax burden on local residents and to provide opportunities for local economic development.

As we address this plan we will work with you to help mitigate the effects of property tax reappraisal for our Montana families.

I stand firm in my resolve. I want permanent tax reform that creates an environment for higher-paying jobs that will be a welcome relief for Montanans. We rank 46th in per capita income, and if we don't reform our tax structure we will still be there - or lower - a decade from now. That is simply not acceptable.

Our plan welcomes and keeps businesses here rather than shutting the doors to growth. It provides opportunities for investment rather than taking money from our small employers, investors, ranchers and farmers and entrepreneurs, because when they succeed, Montana succeeds.

Higher Education

But even with tax reform, economic development does not happen without a quality workforce. Montana's University system is a critical part of creating a high quality workforce.

I would like to welcome Carol Krause as the interim commissioner of Higher Education, and thank former state representative Lila Taylor for agreeing to serve on the Board of Regents. Lila's strong background in our state's largest industry - agriculture - will be a welcome addition to the Board.

I have faith that with their guidance, and that of the other regents, we will strengthen our future workforce and our future leaders.

And, we will continue to transfer technology from the university system to businesses that create the jobs.

Our quality educational system is improving our workforce and technology is compressing the miles, enabling Montana companies to do business globally.

K-12 Public Education

At the same time, we must do everything possible to maintain a quality K-12 education system for our children.

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Education is and always will be a top priority for me and our administration. I have faith that we can work together to preserve and strengthen Montana's excellent education system.

Lt. Governor Karl Ohs has been our administration's leader on education issues. Karl, thank you for your work on behalf of our state's children.

Two years ago, I asked the legislature to focus on the 3-R's – recruiting, retaining and rewarding our outstanding teachers. There is no greater profession than the education of our children, and no greater gift an individual can give than to positively impact the life of a child. Let's all applaud our state's teachers for the job they do.

We must encourage the best and brightest teachers to stay here. We have partnered with School Superintendent Linda McCulloch to bring forward legislation to help repay student loans for new teachers who choose to make Montana home.

Representative Alan Olson's House Bill 107 does just that, serving as a vehicle to help new teachers like Jody Magerius, who was born and raised in Conrad, to stay home rather than seeking a position in another state.

Please join me in welcoming Jody, and seeing that she stays here in Montana.

I thank the House of Representatives for acting quickly on this legislation, and I urge the Senate to do likewise.

We can also retain our talented teachers by addressing the rising costs of healthcare.

On behalf of educators in Montana, I urge you to send me HB 302, sponsored by Representative Dave Lewis and developed in partnership with the education community. This legislation creates a statewide teachers' insurance pool to keep costs down for our schools.

When it comes to our schools, dollars alone don't always make the difference.

Funding is important, and so is funding reform. I ask you to pass legislation sponsored by Representative Roy Brown to help ensure that schools faced with declining enrollments don't sacrifice a quality education to meet their fixed costs.

I am also asking you to pass legislation confirming your support for a school renewal commission. My office will sponsor this commission jointly with the Board of Public Education. This group will be charged with offering substantive solutions to the next legislature on every way schools operate, building on prior studies to get the job done for Montana students.

Please join me in thanking the Board's chair, Dr. Kirk Miller, and all board members for their dedication to students, parents and educators all across Montana.

Our children are the future of this state, and I want to thank the legislative leadership for placing such a high priority on K-12 education that you have restored funding to my budget levels... because we will accept nothing less.

We also need the help of our students in teaching one another. That is why I'm pleased that, with the partnership of student leaders, we will hold a Youth Tobacco Prevention Summit in Helena this spring. Working together, we will ensure a tobacco-free graduating high school class by 2015.

Substance Abuse

But, as we all know, substance abuse spreads far beyond our children, and affects the lives of all too many Montana

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families.

Every day, we read and hear of tragic stories involving the use of methamphetamines and other drugs. I support Senator Mike Cooney's legislation to toughen our meth laws and protect our children.

In partnership with Attorney General Mike McGrath, we formed the Alcohol, Tobacco and Other Drug Control Policy Task Force under the leadership and guidance of Senator Duane Grimes.

Their creative and unique ideas have set the stage for a proactive approach to reducing substance abuse in Montana.

We can all agree that the safety and health of our Montana families is too important for partisanship. That is why I'm asking you to pass House Bill 195, sponsored by Representative Cindy Younkin, which strengthens DUI repeat offender penalties. I also urge your support for Senate Bill 13, the .08 legislation and Senate Bill 39, which places open container laws on the books, both of which are sponsored by Senator Dale Mahlum. These bills toughen Montana's drunk driving laws, with the goal of ensuring that our roads are safer for Montana families and visitors. We simply must stop the unnecessary loss of lives on our roadways.

Healthcare

We can all agree that Montana families deserve an unsurpassed quality of life. We must prioritize health and human service needs, funding what impacts peoples' lives the most. We must maximize the use of federal funding and address rising healthcare costs.

As we work to address health care needs, I ask for your consideration of legislation to implement a senior discount prescription plan in Montana.

We must also address the wise use of our Medicaid dollars. That is why I am creating a Medicaid Reform Commission, to be headed by Dr. Peter Blouke to address growing needs and escalating health-care costs.

We simply must not falter in our efforts to make health care more affordable for Montana families, and to provide for those most in need.

Our efforts must also extend to those with mental illnesses. Our budget addresses the need for more community-based programs for the mentally ill by limiting the population at the Montana State Hospital in Warm Springs, and creating three regional programs.

In addition to these healthcare issues, our hospitals and clinics are faced with other tough challenges, not the least of which is the shortage of qualified healthcare workers.

I established a task force to address those shortages, and in response to their recommendations, I have committed \$120,000 of federal money to partner with Superintendent McCulloch to provide a healthcare career specialist in her office. OPI will also provide \$30,000 of federal money over the next three years, and we are asking private industry to support this effort as well.

Corrections

We have worked hard to find ways to make government operate more efficiently on limited dollars, while protecting the safety of our citizens.

In order to address budget challenges in the Department of Corrections, for example, we initiated a supervised release program for those who have been committed to the Department of Corrections by the court system. We set in place

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a system of checks and balances before implementing this program – and it's working. To date, our return rate is only 7% - much lower than the normal rate of 36%.

Milltown Dam

As we care for our people, we must also care for our land. The ways to address our environmental challenges need not be difficult.

The health of our families and communities, the health of our environment and our wildlife – these must come first.

That is why tonight, I am announcing that I am placing the full support of my office behind removal of the Milltown Dam at Bonner. It's simply the right thing to do.

At the same time, I will continue to press Arco, Northwestern and the Environmental Protection Agency, to ensure that the needs of the local community are met.

Native Americans

In this great state, there are few who have more of the historical background about how fragile our landscape is than our first Montanans.

In the past two years, I have traveled to, and met with, all tribes located within our state's borders to ensure that their voices are heard and that we work together.

I involved tribal representatives as we addressed our healthcare budget challenges.

And tonight we are announcing a new award. The Governor's Award For Excellence in Cultural Education, to be presented annually to the school that best captures the spirit and intent of the Indian Education For All Act of 1999.

Our students must learn as much as possible about the cultural background of their friends and neighbors, and every student needs to know how proud we are of our diversity.

Budget

I have faith that everything I have outlined tonight is achievable, based on our combined will and fortitude, and taking into consideration our current budget challenges.

I will do everything in my power to work with each of you and I am confident that you will do the same, because we all have the same vision for our state – one that includes family, faith, freedom and a prosperous future for all Montanans.

President George W. Bush once said, "A budget's impact is counted in dollars, but measured in lives."

Excellent schools, quality healthcare, higher-paying jobs, a clean environment, and the rich diversity of our people are the values we must fight to protect in this tough budget cycle.

When times are tough, we must care first for those most in need. That is why we have proposed a \$93 million one-time transfer from the coal trust fund.

We cannot cut so deep that we cut programs like CHIP, which provides healthcare coverage for over 9,000 Montana children, and we must maintain funding for foster care programs, including tribal contracts.

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When times are tough, we must first care for those most in need. That is why I have asked that funding for the Breast and Cervical Cancer Treatment Program, the Montana Chemical Dependency Center, Medicaid Pharmacy Benefits for the Medically Needy, and Services for Children with Developmental Disabilities... be held intact, and that we fund provider rates to the best of our ability.

My education budget is also consistent with a balanced view of all services provided and needs in the state.

Again... all of these education and human services programs are made possible by a one-time transfer of \$93 million from the coal trust fund.

And, just so it's clear, in conversations with the two national bond rating agencies, Standard & Poor's and Moody's, we've been informed that our coal trust proposal will **not** affect our bond rating.

Montanans support this proposal, and I ask that each of you look deep inside and ask – is this not the right time to make the philosophical leap to help our fellow Montanans in need through these difficult times?

After hours of study and discussion throughout the state, we are confident that this proposal will serve Montanans well.

The budget I'm presenting includes a combination of increased revenue projections, fund transfers and reductions in spending with **no tax increase on hardworking Montana families**, many of whom cannot even afford insurance, let alone pay higher taxes.

But, let me add that nothing is off the table. Just as I am asking all of you to address the coal trust fund transfer, I will look closely at every idea that you bring forward. I am confident that at the end of the day we will come to a solution that is best for the people we serve.

Conclusion

Much has been entrusted to us, and much is expected. Let us reach across the aisle and do what is best for all Montanans. Let's cooperate.

Everyone has a role to play... because everyone is a member of our Montana family. We all stand to gain... or we all stand to lose.

Let us not be afraid to lead from our hearts.

In early December, I was in Butte and met a 5-year-old boy by the name of Dyllan Lane. As he was walking away with his mother I heard him say, 'Mom – I just met the Gardener.'

I laughed... and then I thought – you know, he's right. I am a gardener – truly, we are all gardeners. It is our job to nurture and grow our economy. It is our job to prepare the soil and plant the seeds for future generations, and it is our job to care for all Montanans.

From all corners of this great state our growth depends on our ability to work together. What we sow today is the future we will harvest tomorrow. We **are** growing together – from Sidney to Eureka, from Hamilton to Wolf Point, and we are doing so with heart and resolve.

But what is the heart of Montana? Is it our way of life? Is it our love of family, freedom, or our faith in one another? Is it our dreams of a prosperous future for our children? It is all of these. But the real heart of Montana is its people.

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The agenda I have set before you tonight is worthy of the people of our great state and worthy of our best combined efforts.

Together we will forge our own future – our own destiny. We must forge it with the hope that just as today we recognize the valiant journey of Lewis and Clark, 200 years from now we will be remembered for our dedication to this journey as well.

Thank you, good evening, and may God Bless the great state of Montana.

President Keenan thanked the Governor and called on Joe Morstein to give the benediction.

Governor Martz and dignitaries were escorted from the House chamber by the escort committee.

Senate Majority Leader Thomas moved that the joint session be adjourned. Motion carried.

Joint session adjourned at 7:17 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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58TH LEGISLATURE
THIRTEENTH LEGISLATIVE DAY**

Helena, Montana
January 22, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Father Kevin O'Neil of St. Helena's Cathedral. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the twelfth legislative day.

SPECIAL ORDERS OF THE DAY

Jack Chiang, Director General of the Taipei Economic and Cultural Office in Seattle was welcomed to the Senate, where he gave a short speech.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 240, SB 241, SB 242.**

Correctly engrossed: **SB 61, SB 88, SB 103, SB 108, SB 143, SB 180.**

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

1/22/2003

SB 70, do pass. Report adopted.

SB 77, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "TO"

Insert: "THROUGH"

2. Page 1, line 22.

Strike: "until"

Insert: "through"

And, as amended, do pass. Report adopted.

SB 146, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

1/22/2003

SB 35, introduced bill, be amended as follows:

1. Title, line 7.

Following: "FACILITY;"

Insert: "ALLOWING EVIDENCE OF DEVELOPMENTAL DISABILITY TO PROVE STATE OF MIND; PROVIDING THAT DEVELOPMENTAL DISABILITY EXCLUDES FITNESS TO PROCEED;"

2. Title, line 8.

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Following: "SECTIONS"

Insert: "46-14-102, 46-14-103,"

3. Page 1, line 12.

Following: line 11

Insert: "Section 1. Section 46-14-102, MCA, is amended to read:

"46-14-102. Evidence of mental disease or defect or developmental disability admissible to prove state of mind.

Evidence that the defendant suffered from a mental disease or defect or developmental disability is admissible to prove that the defendant did or did not have a state of mind that is an element of the offense.""

Insert: "Section 2. Section 46-14-103, MCA, is amended to read:

"46-14-103. Mental disease or defect or developmental disability excluding fitness to proceed. A person who, as a result of mental disease or defect or developmental disability, is unable to understand the proceedings against the person or to assist in the person's own defense may not be tried, convicted, or sentenced for the commission of an offense so long as the incapacity endures.""

Renumber: subsequent sections

4. Page 2, line 13 through line 14.

Following: "53-21-102," on line 13

Strike: remainder of line 13 through "53-20-102," on line 14

5. Page 2, line 14.

Following: "endures"

Insert: "or until disposition of the defendant is made pursuant to this section, whichever occurs first"

6. Page 4, line 1.

Following: "defendant"

Insert: "and recommendations of the professionals who have evaluated the defendant"

7. Page 4, line 5.

Following: the first "defendant"

Insert: "and recommendations of the professionals who have evaluated the defendant"

And, as amended, do pass. Report adopted.

SB 57, introduced bill, be amended as follows:

1/21/2003

1. Page 1, line 23 through line 25.

Following: "means" on line 23

Strike: remainder of line 23 through "rehabilitation" on line 25

Insert: "a substantial disorder of thought or mood that significantly impairs a person's judgment, behavior, or capacity to recognize reality to such an extent that the person requires care, treatment, and rehabilitation"

2. Page 1, line 28.

Following: "53-20-102,"

Strike: "or"

3. Page 1, line 29.

Following: line 28

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Insert: "(iii) drug or alcohol intoxication; or"

Strike: "(iii)"

Insert: "(iv) drug or alcohol"

Following: "addiction"

Strike: "to drugs or alcohol or drug or alcohol intoxication"

And, as amended, do pass. Report adopted.

SB 139, do pass. Report adopted.

1/22/2003

SB 141, introduced bill, be amended as follows:

1. Title, line 9.

Strike: "AN IMMEDIATE EFFECTIVE DATE AND"

2. Page 6, line 10.

Following: line 9

Insert: "(6) The procedures set forth in subsection (5) are not an exclusive remedy. A person or organization may file any action for dissemination of information that the person or organization considers appropriate and permissible."

3. Page 6, line 11.

Strike: section 3 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

1/22/2003

SB 47, introduced bill, be amended as follows:

1. Page 3, lines 4 and 5.

Following: "~~contract~~" on line 4

Insert: "followed in all cases in which the contract"

Following: "~~\$4,000~~" on line 5

Insert: "is in excess of \$25,000"

And, as amended, do pass. Report adopted.

SB 163, introduced bill, be amended as follows:

1. Title, lines 9 and 10.

Strike: "REQUIRING" on line 9 through "FUND;" on line 10

2. Page 2, line 1.

Strike: "shall"

Insert: "may be required to"

3. Page 2, line 2.

Strike: "equal"

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Insert: "of up"

4. Page 2, line 3.

Strike: "entity's general"

Insert: "appropriate"

5. Page 2, lines 8 and 9.

Following: "from" on line 8

Insert: "an appropriate fund of"

Strike: "entity's general fund" on line 9

Insert: "entity"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/21/2003

HB 22, introduced by Kaufmann

HB 23, introduced by Matthews

HB 25, introduced by Galvin-Halcro

HB 78, introduced by Branae

HB 83, introduced by Peterson

HB 84, introduced by Newman

HB 102, introduced by Cohenour

HB 132, introduced by Musgrove

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 243, introduced by Wheat, Tester, referred to State Administration.

SB 244, introduced by Story, Andersen, referred to Natural Resources.

SB 245, introduced by Bohlinger, Weiss, referred to Natural Resources.

SB 246, introduced by Glaser, referred to Local Government.

SB 247, introduced by Cobb, referred to Energy and Telecommunications.

SB 248, introduced by Stonington, referred to Natural Resources.

SB 249, introduced by Taylor, referred to Business and Labor.

SB 250, introduced by Kitzenberg, Cooney, Gallus, Gebhardt, Golie, McNutt, Pease, D. Ryan, Schmidt, Shea, Steinbeisser, Tropila, referred to Fish and Game.

The following House bills were introduced, read first time, and referred to committees:

HB 22, introduced by Kaufmann (by request of the Department of Transportation), referred to Highways and Transportation.

HB 23, introduced by Matthews, referred to Education and Cultural Resources.

HB 25, introduced by Galvin-Halcro, referred to State Administration.

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HB 29, introduced by A. Olson, referred to Judiciary.

HB 43, introduced by Cohenour (by request of the Department of Environmental Quality), referred to Natural Resources.

HB 48, introduced by Newman (by request of the Department of Justice), referred to Judiciary.

HB 58, introduced by Erickson (by request of the Department of Revenue), referred to Taxation.

HB 62, introduced by Lehman (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.

HB 67, introduced by Kaufmann (by request of the Department of Transportation), referred to Highways and Transportation.

HB 69, introduced by Smith (by request of the Secretary of State), referred to State Administration.

HB 70, introduced by Parker (by request of the Department of Justice), referred to Judiciary.

HB 78, introduced by Branae (by request of the Office of Public Instruction), referred to Education and Cultural Resources.

HB 83, introduced by Peterson (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

HB 84, introduced by Newman (by request of the Department of Justice), referred to Judiciary.

HB 102, introduced by Cohenour (by request of the Department of Environmental Quality), referred to Natural Resources.

HB 106, introduced by Erickson (by request of the Department of Revenue), referred to Taxation.

HB 132, introduced by Musgrove, referred to Local Government.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Perry in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SJR 3 - Senator Tash moved **SJR 3** be adopted. Motion carried unanimously.

SB 61 - Senator Tester moved **SB 61** do pass. Motion carried as follows:

Yeas: Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 35

Nays: Anderson, Barkus, Butcher, Curtiss, DePratu, Esp, Johnson, Laible, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Zook.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 94 - Senator Stonington moved **SB 94** do pass. Motion carried unanimously.

SB 111 - Senator Nelson moved **SB 111** do pass. Motion carried unanimously.

SB 117 - Senator Cobb moved **SB 117** do pass. Motion carried unanimously.

SB 132 - Senator McNutt moved **SB 132** do pass. Motion carried unanimously.

SB 39 - Senator Mahlum moved **SB 39** do pass. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Schmidt, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 42

Nays: Bales, Gebhardt, Laible, O'Neil, Ryan, Shea, Sprague, Tropila.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Perry moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 24 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

Nays: Bales, Cobb, Laible, McGee, Sprague, Taylor.

Total 6

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 45 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 68 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 83 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 98 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

SB 61 - Senator Zook moved that **SB 61** be taken from third reading and rereferred to the committee on Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, January 23, 2003. Motion carried.

Senate adjourned at 3:05 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FOURTEENTH LEGISLATIVE DAY**

Helena, Montana
January 23, 2003

Senate Chambers
State Capitol

MOTIONS

Majority Leader Thomas moved that the Senate proceed to the House of Representatives for the purpose of receiving the State of Tribal Nations Address, and further that the Senate reconvene upon adjournment of the joint session. Motion carried.

SPECIAL ORDERS OF THE DAY

Sergeant-at-Arms Clark escorted the Senate into the House chamber.

Speaker Mood recognized President Keenan and yielded the chair to him.

Senate Majority Leader Thomas moved that the body resolve itself into a joint session for the purpose of receiving the State of Tribal Nations Address from Carl Venne, Honorable Chairman of the Crow Nation. Motion carried.

Senate Majority Leader Thomas further moved the president be authorized to appoint a committee of four to notify the chairman of the Crow Nation that we are in joint session and ready to receive the State of Tribal Nations Address. Motion carried.

The president appointed Senator Pease, Senator Glaser, Representative Lambert and Representative Juneau and discharged the committee to escort the chairman and dignitaries into the House chamber.

The escort committee escorted Chairman Venne and dignitaries into the House chamber. The "Mighty Few" welcomed the chairman and dignitaries with a drum selection.

President Keenan introduced Chief Earl Old Person of the Blackfeet Nation, who lead the joint session in prayer, followed by the Pledge of Allegiance.

President Keenan welcomed all the representatives of the Tribal Nations, and introduced Chairman Venne, Chairman of the Crow Nation, who gave the State of Tribal Nations Address.

Chief Earl Old Person gave the benediction, accompanied by members of the drummer group, "Mighty Few", performing the flag song.

Senate Majority Leader Thomas moved the joint session of the 58th legislature, convened to receive the State of Tribal Nations Address, be adjourned. Motion carried.

Joint session adjourned at 1:36 p.m.

Senate reconvened at 1:42 p.m.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the thirteenth legislative day.

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FOURTEENTH LEGISLATIVE DAY - JANUARY 23, 2003

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 243, SB 244, SB 245, SB 246, SB 247, SB 248, SB 249, SB 250.**

Correctly engrossed: **SB 35, SB 47, SB 57, SB 77, SB 141, SB 163.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
SJR 8, be adopted. Report adopted.

1/22/2003

BUSINESS AND LABOR (Mahlum, Chairman):
SB 109, introduced bill, be amended as follows:

1/22/2003

1. Title, page 1, line 6 through line 7.

Following: "PHARMACY;"

Strike: remainder of line 6 through "NURSING;" on line 7

2. Title, page 1, line 13.

Following: "REVOKED;"

Insert: "MODIFYING CHIROPRACTIC LICENSING AND EXAMINATION REQUIREMENTS;"

3. Title, page 1, line 14.

Following: "ACUPUNCTURISTS;"

Insert: "REMOVING THE LIMITATION ON THE REEXAMINATION ELIGIBILITY PERIOD FOR HEARING AID
DISPENSERS;"

4. Title, page 1, line 19.

Following: "2-15-1733,"

Strike: "2-15-1734,"

5. Title, page 1, line 21.

Following: "37-12-102,"

Insert: "37-12-302, 37-12-304,"

Following: "37-13-306,"

Insert: "37-16-403,"

6. Page 1, line 30.

Following: "a"

Strike: "licensed"

Insert: "registered"

7. Page 2, line 8.

Following: "A"

Strike: "licensed"

Insert: "registered"

8. Page 2, line 9.

Following: "A"

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Strike: "licensed"
Insert: "registered"

9. Page 2, line 27 through page 3, line 21.

Strike: section 2 in its entirety

Renumber: subsequent sections

10. Page 6, line 9.

Following: "'M.D.'"

Insert: ", 'D.O.',"

11. Page 15, line 12.

Following: line 11

Insert: "Section 18. Section 37-12-302, MCA, is amended to read:

"37-12-302. Applications -- qualifications -- fees. (1) A person wishing to practice chiropractic in this state shall make application to the department, on the form and in the manner prescribed by the board, ~~at least 21 days prior to a meeting of the board.~~ Each applicant must be a graduate of or expect to graduate within 90 days prior to the next licensing examination administered by the board from a college of chiropractic approved by the board, in which the applicant has attended a course of study of 4 school years of not less than 9 months each. The applicant shall present evidence showing proof of a bachelor's degree from an accredited college or university. Application must be made in writing, must be sworn to by an officer authorized to administer oaths, and must recite the history of applicant's educational qualifications, how long the applicant has studied chiropractic, of what school or college the applicant is a graduate, and the length of time the applicant has been engaged in practice. The application must be accompanied with copies of diplomas and certificates and satisfactory evidence of good character and reputation.

(2) The applicant shall pay to the department a license fee prescribed by the board. A fee must also be paid for a subsequent examination and application.

(3) A person who is licensed in another state or who previously graduated from or was enrolled in a chiropractic college accredited by the council on chiropractic education on or before October 1, 1995, is exempt from the bachelor's degree requirement."

"

Insert: "Section 19. Section 37-12-304, MCA, is amended to read:

"37-12-304. Examinations -- subjects. (1) ~~Examinations for a license to practice chiropractic must be made by the department, subject to 37-1-101, according to the method considered by the board to be the most practicable and expeditious to test the applicant's qualifications. The application must be designated by a number instead of the applicant's name so that the identity will not be discovered or disclosed until after the examination papers are graded. Applicants for a license to practice chiropractic must have passed an examination prescribed by the board.~~

~~(2) Examinations must be administered on subjects taught in chiropractic colleges, on the provisions of this chapter, and on other provisions of the Montana Code Annotated pertaining to the practice of chiropractic. A license must be granted to applicants who correctly answer 75% of all questions asked, including x-ray questions. If an applicant fails to answer correctly 60% of the questions on any branch of the examination, the applicant is not entitled to a license.~~

~~(3)(2) The board may accept the grades an applicant has received in the examinations given by the national board of chiropractic examiners and may authorize the department to issue a license without further examination to an applicant who holds a valid certificate from the national board of chiropractic examiners if the applicant meets the other requirements of this chapter. The board may require an applicant to satisfactorily pass a clinical proficiency examination before being issued a license, even though the applicant holds a valid certificate from the national board of chiropractic examiners."~~

Renumber: subsequent sections

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12. Page 16, line 5.

Following: line 4

Insert: "Section 21. Section 37-16-403, MCA, is amended to read:

"37-16-403. Examinations -- time and place --number of failures allowed. (†) An applicant for a license who is notified by the department that the applicant has fulfilled the requirements of 37-16-402 shall appear at a time and place designated by the board to take written and practical examinations in order to demonstrate that the applicant is qualified to practice the fitting of hearing aids and related devices.

~~(2) An applicant who fails two successive practical examinations is eligible for reexamination after 2 years have elapsed since the date of the applicant's last examination and after the applicant has completed additional training or education recognized by the board."~~

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 162, introduced bill, be amended as follows:

1. Title, page 1, lines 7 and 8.

Strike: "IMMEDIATE" on line 7

Following: "DATE AND" on line 7

Strike: remainder of line 7 through "RETROACTIVE" on line 8

Insert: "AN"

2. Page 5, lines 5 through 7.

Strike: "retroactive" on line 5

Strike: "on" on line 5 through "2001" on line 7

Insert: "July 1, 2003, and applies to tax periods beginning on or after July 1, 2003"

And, as amended, do pass. Report adopted.

SB 172, introduced bill, be amended as follows:

1. Page 2, line 13.

Strike: "does"

Insert: "may"

2. Page 2, line 15.

Strike: "and does not"

Insert: "or to"

And, as amended, do pass. Report adopted.

SB 188, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

1/22/2003

SB 76, do pass. Report adopted.

SB 81, introduced bill, be amended as follows:

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1. Title, line 6 through line 7.

Strike: "A" on line 6 through "VETERAN" on line 7

Insert: "CERTAIN VETERANS"

2. Page 1, line 13.

Following: "a"

Insert: "current or former"

3. Page 1, line 15.

Following: "1947"

Insert: ", "

4. Page 1, line 16.

Strike: "or"

Following: "1953"

Insert: ", or during the Vietnam conflict from 1961 through 1975"

And, as amended, do pass. Report adopted.

SB 96, introduced bill, be amended as follows:

1. Page 2, line 8.

Following: "week."

Insert: "(1)"

2. Page 2.

Following: line 14

Insert: "(2) When proposing to adopt changes to a previously adopted school term, school week, or school day, the trustees shall:

(a) negotiate the changes with the recognized collective bargaining unit representing the employees affected by the changes; and

(b) solicit input from the employees affected by the changes but not represented by a collective bargaining unit."

And, as amended, do pass. Report adopted.

SB 97, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

1/23/2003

SB 78, do pass. Report adopted.

SB 206, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

1/23/2003

SB 8, do pass. Report adopted.

SB 66, introduced bill, be amended as follows:

1. Title, page 1, line 5.

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Strike: "ELIMINATING THE REQUIREMENT THAT A MEMBER"

Insert: "REDUCING THE YEARS OF SERVICE REQUIRED BEFORE MEMBERS"

2. Title, page 1, line 6.

Following: "EMPLOYEES"

Insert: ", SHERIFFS', HIGHWAY PATROL OFFICERS', GAME WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED"

Strike: "SYSTEM" through "TO"

Insert: "SYSTEMS MAY"

3. Title, page 1, line 7.

Following: "SERVICE;"

Insert: "PROVIDING THAT MEMBERS OF THE JUDGES' RETIREMENT SYSTEM MAY PURCHASE MILITARY SERVICE;"

4. Title, page 1, line 8.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "19-3-503,"

Insert: "19-6-801, 19-7-803, 19-7-804, 19-8-901, 19-9-403, AND 19-13-403,"

Following: "AN"

Strike: "IMMEDIATE"

5. Page 1, line 15.

Strike: "vested"

Following: "credit"

Insert: "with at least 5 years of membership service"

6. Page 1.

Following: line 26

Insert: "Section 2. Section 19-6-801, MCA, is amended to read:

"19-6-801. Application to purchase military service. (1) Except as otherwise provided in this section and subject to 19-6-805, ~~a an eligible member with at least 15 years of service credit~~ may, at any time prior to retirement, file a written application with the board to purchase up to 5 years of the member's active service in the armed forces of the United States for the purpose of calculating retirement benefits.

(2) To purchase this military service:

(a) a member with at least 15 years of service credit and who is not covered by 19-6-710 shall contribute the amount determined by the board to be due based on the member's compensation and regular contribution rate in the member's 16th year for the 1st year purchased and, for each subsequent year purchased, an amount based on the member's compensation and contribution rate in each of as many years succeeding the member's 16th year as are required to complete the purchase, with regular interest from the date the member becomes eligible for this benefit to the date the purchase is complete. The member may not purchase more military service under this subsection (2)(a) than the member has service credit in excess of 15 years.

(b) a member with at least 5 years of membership service and who is covered by 19-6-710 shall pay the actuarial cost of the member's military service, based on the system's most recent actuarial valuation.

(3) A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

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- (b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or
- (c) is eligible to receive credit for that service in any other retirement system or plan.""

Insert: "Section 3. Section 19-7-803, MCA, is amended to read:

"19-7-803. Application to purchase military service. (1) Except as otherwise provided in this section and subject to 19-7-805, a member with at least ~~45~~ 5 years of membership service ~~credit~~ may, at any time prior to retirement, file a written application with the board to purchase up to 5 years of the member's active service in the armed forces of the United States for the purpose of calculating retirement benefits.

(2) To purchase this military service, the member shall pay the actuarial cost of the member's military service, based on the system's most recent actuarial valuation.

(3) A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

(b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c) is eligible to receive credit for that service in any other retirement system or plan.

~~(4) Military service purchased under this section is not membership service and may not be used in determining the member's eligibility for a service retirement benefit."~~

Insert: "Section 4. Section 19-7-804, MCA, is amended to read:

"19-7-804. Application to purchase additional service. (1) Subject to 19-7-805, a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 additional year of service credit for each 5 years of membership service.

(2) To purchase service under this section, a member shall pay the actuarial cost of the service in the sheriffs' retirement system, as determined by the board, based on the system's most recent actuarial valuation.

~~(3) Service purchased under this section may not be used to qualify a member for the purchase of military service under 19-7-803.~~

~~(4)(3)~~ Service purchased under this section must be credited for the purpose of meeting retirement eligibility and for calculating retirement benefits.""

Insert: "Section 5. Section 19-8-901, MCA, is amended to read:

"19-8-901. Application to purchase military service. (1) (a) Except as otherwise provided in this section and subject to 19-8-906, a member with at least ~~45~~ 5 years of membership service ~~credit~~ may, at any time prior to retirement, file a written application with the board to purchase up to 5 years of the member's active service in the armed forces of the United States for the purpose of calculating retirement benefits.

(b) To purchase this military service, the member shall pay the actuarial cost of the member's military service, based on the system's most recent actuarial valuation as determined by the board.

(2) A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

(b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c) is eligible to receive credit for that service in any other retirement system or plan.""

Insert: "Section 6. Section 19-9-403, MCA, is amended to read:

"19-9-403. Application to purchase military service. (1) Except as otherwise provided in this section and subject to 19-9-406, a member with at least ~~45~~ 5 years of membership service ~~credit~~ may, at any time prior to retirement, file a written application with the board to purchase up to 5 years of the member's active duty service in the armed forces of the United States for the purpose of calculating retirement benefits.

(2) To purchase this military service, the member shall pay the actuarial cost of the member's military service,

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based on the system's most recent actuarial valuation.

~~(3) The member may not purchase more military service than the member's years of membership service in excess of 15 years.~~

~~(4)~~(3) A member is not eligible to purchase military service under this section if the member:

- (a) has retired from active duty in the armed forces of the United States with a military retirement benefit based on that military service;
- (b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or
- (c) is eligible to receive credit for that service in any other retirement system or plan."

Insert: "Section 7. Section 19-13-403, MCA, is amended to read:

"19-13-403. Application to purchase military service. (1) (a) Except as otherwise provided in this section and subject to 19-13-406, a member with at least ~~15~~ 5 years of membership service ~~credit~~ may, at any time prior to retirement, file a written application with the board to purchase up to 5 years of the member's active duty service in the armed forces of the United States for the purpose of calculating retirement benefits.

(b) To purchase this military service, the member shall pay the actuarial cost of the service, based on the system's most recent actuarial valuation.

~~(2) A member may not purchase more military service than the member's years of membership service in excess of 15 years.~~

~~(3)~~(2) A member is not eligible to purchase military service under this section if the member:

- (a) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;
- (b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or
- (c) is eligible to receive credit for that service in any other retirement system or plan.

~~(4) Military service purchased under this section is not membership service and may not be used in determining the member's eligibility for a service retirement benefit."~~

Insert: "NEW SECTION. Section 8. Application to purchase military service credit. (1) Except as otherwise provided in this section and subject to [section 9], a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase up to 5 years of the member's active service in the armed forces of the United States for the purpose of calculating retirement benefits.

(2) To purchase this military service, the member shall pay the actuarial cost of the service, based on the system's most recent actuarial valuation.

(3) A member is not eligible to purchase military service under this section if the member:

- (a) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;
- (b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or
- (c) is eligible to receive credit for that service in any other retirement system or plan."

Insert: "NEW SECTION. Section 9. Service purchase limitation. A member may not purchase more than a combined total of 5 years of service under 19-5-409 and [section 8]."

Insert: "NEW SECTION. Section 10. Codification instruction. [Sections 8 and 9] are intended to be codified as an integral part of Title 19, chapter 5, part 4, and the provisions of Title 19, chapter 5, part 4, apply to [sections 8 and 9]."

7. Page 1, line 28.

Strike: "on passage and approval"

Insert: "July 1, 2003"

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And, as amended, do pass. Report adopted.

SB 110, do pass. Report adopted.

SB 165, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/22/2003

HB 15, introduced by Newman

HB 89, introduced by A. Olson

HB 108, introduced by A. Olson

HB 123, introduced by P. Clark

HB 128, introduced by Rice

HB 149, introduced by Hedges

HB 153, introduced by Ballantyne

HB 157, introduced by Haines

HB 159, introduced by Haines

HB 161, introduced by Matthews

HB 169, introduced by Keane

HB 188, introduced by Devlin

MOTIONS

HB 35 - Senator Mahlum moved **HB 35** be taken from the committee on Business and Labor and rereferred to the committee on State Administration. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 251, introduced by Bales, Barkus, Black, Butcher, Curtiss, Esp, Perry, Ripley, Tash, Witt, Zook, referred to Fish and Game.

SB 252, introduced by Squires, Kitzenberg, Mahlum, Shea, Tropila, referred to State Administration.

SB 253, introduced by Elliott, referred to Fish and Game.

SB 254, introduced by Cooney, Mangan, McNutt, A. Olson, D. Ryan, Steinbeisser, Wilson, referred to Business and Labor.

SB 255, introduced by DePratu, Butcher, McNutt, referred to Taxation.

SB 256, introduced by Ellingson, Tester, Toole, Wanzenried, referred to Taxation.

SB 257, introduced by Cooney, referred to Judiciary.

SB 258, introduced by F. Thomas, Mood, R. Brown, Brueggeman, Keenan, Laszloffy, McNutt, Stapleton, referred to Legislative Administration.

The following House bills were introduced, read first time, and referred to committees:

HB 15, introduced by Newman (by request of the Department of Justice), referred to Judiciary.

HB 89, introduced by A. Olson (by request of the Department of Environmental Quality), referred to Natural Resources.

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HB 108, introduced by A. Olson, referred to State Administration.

HB 123, introduced by P. Clark (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 128, introduced by Rice, Devlin, referred to Agriculture, Livestock and Irrigation.

HB 149, introduced by Hedges, referred to Judiciary.

HB 153, introduced by Ballantyne (by request of the Office of Public Instruction), referred to Education and Cultural Resources.

HB 157, introduced by Haines (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 159, introduced by Haines (by request of the Department of Public Health and Human Services), referred to Business and Labor.

HB 161, introduced by Matthews (by request of the Department of Corrections), referred to Judiciary.

HB 169, introduced by Keane (by request of the State Auditor), referred to Business and Labor.

HB 188, introduced by Devlin (by request of the Department of Revenue), referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Ryan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 70 - Senator McNutt moved **SB 70** do pass. Motion carried with Senator Gebhardt voting nay.

SB 88 - Senator Bales moved **SB 88** do pass. Motion carried unanimously.

SB 103 - Senator Laible moved **SB 103** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Bohlinger, Johnson.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 108 - Senator McNutt moved **SB 108** do pass. Motion carried unanimously.

SB 139 - Senator Shea moved **SB 139** do pass. Motion carried as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Butcher, Curtiss, McGee, O'Neil.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 143 - Senator Bohlinger moved **SB 143** do pass. After discussion, Senator Thomas made a **substitute motion** that consideration of **SB 143** be passed for the day. Motion carried.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Ryan moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 39 passed as follows:

Yeas: Anderson, Barkus, Bohlinger, Butcher, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Pease, Perry, Roush, Schmidt, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Wheat, Zook, Mr. President.

Total 35

Nays: Bales, Black, Cobb, Cocchiarella, Curtiss, Gebhardt, Harrington, Laible, Nelson, O'Neil, Ryan, Shea, Sprague, Tester, Tropila.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 94 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 111 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 117 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 132 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 3 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, January 24, 2003. Motion carried.

Senate adjourned at 3:05 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTEENTH LEGISLATIVE DAY**

Helena, Montana
January 24, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Senator Bohlinger. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Stonington, excused. Quorum present.

The presiding officer has authenticated the daily journal for the fourteenth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 251, SB 252, SB 253, SB 254, SB 255, SB 256, SB 257, SB 258.**

Correctly engrossed: **SB 66, SB 81, SB 96, SB 109, SB 162, SB 172.**

Senator Stonington present at this time.

BUSINESS AND LABOR (Mahlum, Chairman):
SB 131, introduced bill, be amended as follows:

1/24/2003

1. Title, page 1, line 7.

Strike: "FEDERAL"

Insert: "UNITED STATES DEPARTMENT OF AGRICULTURE"

Following: "PROGRAMS"

Insert: "AND OTHER FEDERAL PROGRAMS"

2. Page 1, line 22.

Following: "9812a"

Insert: "or other federal revolving loan programs, including but not limited to programs from the economic development administration of the U.S. department of commerce and the community development financial institution program from the U.S. department of the treasury"

3. Page 2, line 20.

Following: "9812a"

Insert: "or other federal revolving loan programs, including but not limited to programs from the economic development administration of the U.S. department of commerce and the community development financial institution program from the U.S. department of the treasury"

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):
SB 118, introduced bill, be amended as follows:

1/24/2003

1. Title, page 1, line 8.

Strike: "2008"

Insert: "2006"

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2. Page 2, line 18.

Following: line 18

Insert: "(6) For the purposes of this section, "conspicuously displayed" means that the required license plates are obviously visible and firmly attached to:

(a) the front and the rear bumper of a motor vehicle equipped with front and rear bumpers; or

(b) other clearly visible locations on the front and the rear exteriors of a motor vehicle."

3. Page 5, lines 4 and 5.

Strike: "2007" on line 4

Insert: "2005"

Strike: "2008" on line 6

Insert: "2006"

4. Page 20, line 11.

Following: "sold"

Insert: "or renewed"

5. Page 24, line 10.

Following: "(1)"

Strike: "The"

Insert: "(a) Except as provided in subsection (1)(b), the"

6. Page 24.

Following: line 18

Insert: "(b) If the sponsor of a generic specialty license plate is not listed on the county collection report published by the department of revenue and required under 15-1-504 as of the initial distribution date for the sale of the sponsor's plates, the department shall require the sponsor to collect the initial donation fee from, and issue a special certificate of registration to, a person who is eligible to receive the sponsor's generic specialty license plates. The person shall present the special certificate of registration upon application for the generic specialty license plates."

7. Page 25, line 6.

Following: "pay"

Strike: "the donation fee specified by the sponsor and"

Following: "\$15"

Insert: "and, except as provided in 61-3-479(1)(b), the donation fee specified by the sponsor"

8. Page 25, line 9.

Following: "this title"

Insert: "and unless otherwise provided in 61-3-479(1)(b)"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

1/24/2003

SB 160, introduced bill, be amended as follows:

1. Title, page 1, line 4.

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Strike: "AGENCIES"

Insert: "THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES"

2. Page 1, line 15.

Strike: "has" through "2-15-102"

Insert: "means a division of the department of public health and human services"

3. Page 1.

Following: line 15

Insert: "(2) "Department" means the department of public health and human services provided for in 2-15-2201."

Renumber: subsequent subsections

4. Page 1, line 17.

Strike: "an agency's"

Following: "actions"

Insert: "by the department and its agencies"

5. Page 1, line 18.

Following: "services"

Insert: "that the department or"

6. Page 1, line 20.

Following: "in"

Insert: "the department's or"

7. Page 1, line 23.

Following: "that the"

Insert: "department or an"

8. Page 1, line 24.

Strike: "the mission"

Insert: "missions"

9. Page 1, line 27.

Strike: the first "agencies"

Insert: "the department"

Strike: the second "agencies"

Insert: "the department"

10. Page 1, line 29.

Following: "toward"

Insert: "the department's or"

11. Page 1, line 30.

Following: "focus"

Insert: "department or"

12. Page 2, line 6.

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Strike: "Each agency's"
Insert: "The department's"

13. Page 2, line 10.
Following: "to"
Insert: "the department,"
Following: "agency"
Insert: ", "

14. Page 2, line 15.
Following: "every"
Insert: "department or"

15. Page 2, lines 23 through 24.
Strike: "each" on line 23 through "agency" on line 24
Insert: "the department"

16. Page 2, line 26.
Strike: "agency"
Insert: "the department's"

17. Page 2, line 27.
Following: "strategies of"
Insert: "department or"

18. Page 2, line 29.
Following: "on"
Strike: "the agency's"
Insert: "department and agency"

19. Page 3, line 2.
Following: "of the"
Strike: "agency budget"
Insert: "department and the agencies' budgets"

20. Page 3, line 3.
Strike: "agency's mission"
Insert: "department's and the agencies' missions"

21. Page 3, line 6.
Strike: the first "Agency"
Insert: "Department and agency"
Strike: the second "Agency"
Insert: "Department and agency"

22. Page 3, line 7.
Following: "for"

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Insert: "the department or"

23. Page 3, line 8.

Following: "from the"

Insert: "department's or an"

24. Page 3, line 9.

Following: "serving the"

Insert: "department's or an"

Following: "years, the"

Insert: "department and its"

25. Page 3, line 14.

Strike: the first "17"

Insert: "2"

Strike: the first "1"

Insert: "15, part 22"

Strike: the second "17"

Insert: "2"

Strike: the second "1"

Insert: "15, part 22"

And, as amended, do pass. Report adopted.

TAXATION (DePratu, Chairman):

1/24/2003

SB 82, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "THE"

2. Title, page 1, line 5.

Following: line 4

Insert: "OPERATIONS,"

Strike: "AND ESTABLISHMENT"

Insert: ", CAPITAL EXPENDITURES, AND ACQUISITION"

3. Title, page 1, line 6.

Following: "MONTANA;"

Insert: "ELIMINATING STATE PARK DAY-USE FEES FOR RESIDENTS;"

4. Title, page 1, line 7.

Following: "MONTANA;"

Insert: "AMENDING SECTION 23-1-105, MCA;"

5. Page 1, line 12.

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Following: "parks."

Insert: "(1)"

Following: "15-10-420,"

Insert: "for the period ending December 31, 2014,"

6. Page 1, line 17.

Insert: "(2) One-half of the funds in the state special revenue fund must be allocated equally to administrative regions, and the remainder must be allocated by the commission. The funds allocated by administrative districts must be used for state park purposes within those districts. The funds must be used for the operation, maintenance, capital expenditures, and acquisition of state parks.

(3) The funding authorized by this section is a replacement for resident day-use fees for state parks.

(4) For the purposes of 15-23-703 and 15-36-324, the levy authorized by this section is not considered a state levy for the determination and distribution of nonlevy revenue based upon relative proportions of mills levied for state, county, and school district purposes.

Insert: "Section 2. Section 23-1-105, MCA, is amended to read:

"23-1-105. Fees and charges. (1) The department may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided and to grant concessions that it considers advisable, except as provided in subsection (2). All money derived from the activities of the department, except as provided in subsection (5), must be deposited in the state treasury in a state special revenue fund to the credit of the department.

(2) (a) The department may establish day-use fees payable by nonresident users. During the period in which a levy is authorized in [section 1], residents of the state may not be charged for day use of state parks.

(b) Overnight camping fees established by the department under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and either 62 years of age or older or certified as disabled in accordance with rules adopted by the department.

(3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that time, the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is not subject to the deposit requirements of 17-6-105. The department shall deposit money collected under this section within a reasonable time after receipt.

(5) There is a fund of the enterprise fund type, as defined in 17-2-102(1)(b)(i), for the purpose of managing state park visitor services revenue. The fund is to be used by the department to serve the recreating public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise and other related goods and services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided in this subsection.""

"

Renumber: subsequent sections

7. Page 1, line 24.

Following: "2-mill"

Insert: "property tax"

Strike: "on all taxable property"

8. Page 1, line 25.

Strike: "maintenance" through "of"

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Insert: "eliminate resident day-use fees and for funding"

9. Page 1, line 26.

Following: "2-mill"

Insert: "property tax"

Strike: "on all taxable property"

10. Page 1, line 27.

Strike: "maintenance" through "of"

Insert: "eliminate resident day-use fees and for funding"

And, as amended, do pass. Report adopted.

SB 159, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "A BUILDING AND APPURTENANT LAND"

Insert: "CERTAIN PROPERTY"

2. Page 1, line 10.

Strike: "Buildings"

Insert: "Property"

Strike: "The"

Insert: "A"

3. Page 1, line 11.

Following: "land"

Insert: "or just the appurtenant land"

Following: "leased"

Insert: "for less than \$100 a year"

4. Page 1, line 13.

Following: "taxation"

Insert: "if the building was constructed on a railroad right-of-way by a railroad prior to the year 2000"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/23/2003

HB 77, introduced by Jent

HB 88, introduced by Kasten

HB 96, introduced by Devlin

HB 98, introduced by McKenney

HB 107, introduced by A. Olson

HB 136, introduced by Fisher

HB 174, introduced by B. Thomas

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HB 175, introduced by P. Clark

HB 230, introduced by Erickson

MOTIONS

SB 237 - Senator Bales moved **SB 237** be taken from the committee on Agriculture, Livestock and Irrigation and rereferred to the committee on Fish and Game. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 259, introduced by Glaser, Story, referred to Education and Cultural Resources.

SB 260, introduced by DePratu, Brueggeman, Anderson, Barkus, Bohlinger, Butcher, Curtiss, Everett, Grimes, Haines, Kasten, Keenan, Kitzenberg, Laible, Lake, Lawson, McNutt, Mood, Morgan, A. Olson, Pattison, Sales, Sprague, Tash, Taylor, Witt, Zook, referred to Taxation.

SB 261, introduced by Stonington, referred to Natural Resources.

SB 262, introduced by Perry, Facey, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laible in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 143 - Senator Bohlinger moved **SB 143** do pass. Motion carried as follows:

Yeas: Anderson, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 33

Nays: Bales, Barkus, Black, Butcher, Cobb, Curtiss, Esp, Glaser, Grimes, Laible, McGee, Perry, Sprague, Stapleton, Story, Taylor, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 146 - Senator Anderson moved **SB 146** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Butcher excused at this time.

SB 180 - Senator Ryan moved **SB 180** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Curtiss, McGee, O'Neil.

Total 3

Absent or not voting: None.

Total 0

Excused: Butcher.

Total 1

SB 35 - Senator Grimes moved **SB 35**, second reading copy, be amended as follows :

1. Page 4, line 17.

Following: "~~or~~"

Insert: "correctional facility,"

2. Page 4, line 21.

Following: "~~health~~"

Insert: "correctional, mental health, or developmental disabilities"

Amendment **adopted** unanimously.

SB 35 - Senator Grimes moved **SB 35**, as amended, do pass. Motion carried unanimously.

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SB 47 - Senator Gebhardt moved **SB 47** do pass. Motion carried unanimously.

SB 57 - Senator Keenan moved **SB 57** do pass. Motion carried unanimously.

Senator Butcher present at this time.

Senators Cobb and Perry excused at this time.

SB 76 - Senator Schmidt moved **SB 76** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Gebhardt, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: Cobb, Perry.

Total 2

SB 78 - Senator McCarthy moved **SB 78** do pass. Motion carried unanimously.

Senator Cobb present at this time.

SB 97 - Senator Story moved **SB 97** do pass. Motion carried unanimously.

Senator Butcher excused at this time.

SB 141 - Senator Wheat moved **SB 141** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Butcher, Perry.
Total 2

SB 163 - Senator Mangan moved **SB 163** do pass. After discussion, **SB 163** was moved to the bottom of the board for purpose of amendment.

SB 188 - Senator Cocchiarella moved **SB 188** do pass. Motion carried unanimously.

Senator Butcher present at this time.

SB 206 - Senator Anderson moved **SB 206** do pass. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Laible moved the Committee of the Whole report be adopted. Report adopted.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 70 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Perry.
Total 1

SB 88 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

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Absent or not voting: None.

Total 0

Excused: Perry.

Total 1

SB 103 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Perry.

Total 1

SB 108 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Perry.

Total 1

SB 139 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

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Nays: Butcher, Curtiss, McGee, O'Neil.
Total 4

Absent or not voting: None.
Total 0

Excused: Perry.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 9:00 a.m., Saturday, January 25, 2003. Motion carried.

Senate adjourned at 3:16 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTEENTH LEGISLATIVE DAY**

Helena, Montana
January 25, 2003

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Johnson, excused. Quorum present.

The presiding officer has authenticated the daily journal for the fifteenth legislative day.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Grimes, Chairman):

1/24/2003

SB 34, introduced bill, be amended as follows:

1. Page 2, line 1.

Following: "at least"

Strike: "~~two-thirds~~"

Insert: "three-fourths"

2. Page 2, line 7 through line 8.

Following: "court," on line 7

Strike: remainder of line 7 through "~~70-30-311~~" on line 8

Insert: "an order to show cause why the property should not be condemned as requested in the complaint"

3. Page 2, line 9.

Following: line 8

Insert: "(5)(a) If the condemnee does not file an objection to the motion within 10 days, the court shall issue the preliminary condemnation order as provided in 70-30-206 and place the condemnor in possession of the property as provided in 70-30-311."

4. Page 2, line 9.

Strike: "~~(5)(a)~~"

Insert: "(b)"

5. Page 2, line 9 through line 10.

Following: "motion" on line 9

Strike: remainder of line 9 through "possession" on line 10

6. Page 2, line 10.

Strike: "set a date for"

Insert: "schedule"

7. Page 2, line 14 through line 16.

Strike: subsection (b) in its entirety

Insert: "(c) The motion shall include a notice specifying that the order sought is a final order on the issue of possession of the property described in the complaint."

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 25, 2003

8. Page 3, line 14.

Following: "condemnation order"

Insert: "pursuant to 70-30-206"

Following: "an order"

Strike: "placing the department of transportation in possession."

9. Page 3, line 15.

Following: "(5)"

Strike: " "

And, as amended, do pass. Report adopted.

SB 164, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

1/25/2003

SB 142, introduced bill, be amended as follows:

1. Title, lines 6 and 7.

Following: "LAW" on line 6

Strike: remainder of line 6 through "INFRASTRUCTURE INFORMATION," on line 7

2. Title, lines 10 and 11.

Following: "CAPACITY;" on line 10

Strike: remainder of line 10 through "SYSTEMS";" on line 11

Strike: "SECTIONS 2-6-101 AND"

Insert: "SECTION"

3. Page 1, line 17.

Strike: "related to critical information"

4. Page 1, line 22 through page 2, line 19.

Strike: section 1 in its entirety

Renumber: subsequent sections

5. Page 3, line 11.

Strike: "critical infrastructure"

6. Page 3, line 20.

Following: "interest"

Strike: " "

Insert: "or"

Following: "safety"

Strike: ", or security in public facilities"

And, as amended, do pass. Report adopted.

SB 149, do pass. Report adopted.

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SB 195, do pass. Report adopted.

HB 21, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/24/2003

HB 44, introduced by Smith

HB 53, introduced by Newman

HB 54, introduced by Newman

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 263, introduced by Grimes, referred to Judiciary.

SB 264, introduced by Grimes, referred to Judiciary.

SB 265, introduced by Grimes, McGee, referred to Judiciary.

SB 266, introduced by Cobb, Butcher, Elliott, Tester, referred to Agriculture, Livestock and Irrigation.

SB 267, introduced by Stapleton, R. Brown, Brueggeman, F. Thomas, referred to Education and Cultural Resources.

SB 268, introduced by Shea, referred to Business and Labor.

SB 269, introduced by Laible, referred to Natural Resources.

SB 270, introduced by Harrington, Squires, Wanzenried, referred to Business and Labor.

SB 271, introduced by Stapleton, Wanzenried, referred to Taxation.

SB 272, introduced by Toole, referred to Energy and Telecommunications.

SB 273, introduced by Tester, Wanzenried, D. Brown, Dowell, Ellingson, Forrester, Jacobson, Lindeen, Pattison, Schmidt, Sinrud, Stonington, Toole, referred to Business and Labor.

SB 274, introduced by McGee, Anderson, Bales, Balyeat, Barkus, Black, R. Brown, Butcher, Curtiss, DePratu, Esp, Fuchs, Glaser, Grimes, Jackson, Keenan, Laible, Lake, Lange, Laszloffy, Mahlum, Mood, Morgan, Pattison, Perry, Stapleton, Story, Taylor, F. Thomas, Tropila, Wagman, referred to Judiciary.

The following House bills were introduced, read first time, and referred to committees:

HB 44, introduced by Smith, referred to State Administration.

HB 53, introduced by Newman, referred to Judiciary.

HB 54, introduced by Newman, referred to Judiciary.

HB 77, introduced by Jent (by request of the Department of Justice), referred to Judiciary.

HB 88, introduced by Kasten (by request of the Legislative Finance Committee), referred to Taxation.

HB 96, introduced by Devlin (by request of the Office of Budget and Program Planning), referred to Taxation.

HB 98, introduced by McKenney (by request of the Department of Labor and Industry), referred to Business and Labor.

HB 107, introduced by A. Olson (by request of the Governor), referred to Education and Cultural Resources.

HB 136, introduced by Fisher (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 174, introduced by B. Thomas (by request of the Department of Labor and Industry), referred to Business and Labor.

HB 175, introduced by P. Clark (by request of the Environmental Quality Council), referred to Natural Resources.

HB 230, introduced by Erickson, referred to Business and Labor.

SECOND READING OF BILLS

SENATE JOURNAL
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(COMMITTEE OF THE WHOLE)

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Bales in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SJR 8 - Senator Tester moved **SJR 8** be adopted. Motion carried unanimously.

SB 163 - Senator Mangan moved **SB 163**, second reading copy, be amended as follows :

1. Title, line 13.

Following: "FROM"

Insert: "AN APPROPRIATE FUND OF"

2. Title, line 14.

Strike: "ENTITY'S GENERAL FUND"

Insert: "ENTITY"

Amendment **adopted** unanimously.

SB 163 - Senator Mangan moved **SB 163**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Elliott, Laible, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: Johnson.

Total 1

SB 8, requiring 2/3 of entire Legislature - Senator Sprague moved **SB 8** do pass. Motion received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

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Total 20

Absent or not voting: None.

Total 0

Excused: Johnson.

Total 1

SB 66 - Senator Bohlinger moved **SB 66** do pass. Motion carried unanimously.

SB 81 - Senator Cooney moved **SB 81** do pass. Motion carried with Senator Stapleton voting nay.

SB 96 - Senator Kitzenberg moved **SB 96** do pass. Motion carried unanimously.

SB 109 - Senator McNutt moved **SB 109** do pass. After discussion, **SB 109** was moved to the bottom of the board for purpose of amendment..

SB 110 - Senator Toole moved **SB 110** do pass. Motion carried unanimously.

SB 162 - Senator Story moved **SB 162** do pass. Motion carried unanimously.

SB 165 - Senator Cooney moved **SB 165** do pass. Motion passed as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Johnson.

Total 1

Senator Tester excused at this time.

SB 172 - Senator McNutt moved **SB 172** do pass. Motion carried unanimously.

SB 109 - Senator McNutt moved **SB 109** do pass. After discussion, Senator Butcher made a **substitute motion** that **SB 109**, second reading copy, be amended as follows :

1. Page 8, line 25.

Following: "~~days~~"

Insert: "at least 30 days"

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 25, 2003

2. Page 14, line 26.

Following: "days"

Insert: "no later than 30 days"

3. Page 18, line 26.

Following: "days"

Insert: "no later than 30 days"

Amendment **not** adopted as follows:

Yeas: Butcher, Curtiss, Glaser, O'Neil, Stapleton, Taylor.

Total 6

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 42

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

SB 109 - Senator McNutt's motion that **SB 109** do pass carried as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 40

Nays: Black, Butcher, Curtiss, DePratu, O'Neil, Stapleton, Taylor, Zook.

Total 8

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Bales moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

SENATE JOURNAL
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The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 47 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

SB 57 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

SB 76 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: McGee.

Total 1

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Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

SB 78 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

SB 97 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

SB 141 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Johnson, Tester.
Total 2

SB 143 passed as follows:

Yeas: Anderson, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Toole, Tropila, Wheat, Mr. President.
Total 33

Nays: Bales, Barkus, Black, Butcher, Cobb, Curtiss, Esp, Laible, McGee, Perry, Sprague, Stapleton, Story, Taylor, Thomas, Zook.
Total 16

Paired: Johnson, Aye; Stapleton, No.

Absent or not voting: None.
Total 0

Excused: Tester.
Total 1

SB 146 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Johnson, Tester.
Total 2

SB 180 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

SB 188 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

SB 206 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 25, 2003

ANNOUNCEMENTS

Senator Stapleton introduced the Senate pages and gave a brief overview of their current interests and of their future plans, and thanked them for their work through the week.

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, January 27, 2003. Motion carried.

Senate adjourned at 12:04 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTEENTH LEGISLATIVE DAY**

Helena, Montana
January 27, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Butcher, excused. Quorum present.

The presiding officer has authenticated the daily journal for the sixteenth legislative day.

Senator Butcher present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 259, SB 260, SB 261, SB 262, SB 263, SB 264, SB 265, SB 266, SB 267, SB 268, SB 269, SB 270, SB 271, SB 272, SB 273, SB 274.**

Correctly engrossed: **SB 142, SB 163.**

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

1/27/2003

SB 202, do pass. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

1/27/2003

SB 86, do pass. Report adopted.

SB 135, do pass. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

1/27/2003

SB 258, do pass. Report adopted.

HB 91, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

1/27/2003

SB 137, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "STATE"

Insert: "TRUST"

2. Title, page 1, line 6.

Following: "STATE"

Insert: "TRUST"

3. Page 1, line 15.

Following: "that state"

Insert: "trust"

Following: "land"

Insert: ", as described in The Enabling Act (approved February 22, 1889, 25 Stat. 676),"

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4. Page 1, line 17.

Following: "best"

Strike: "long-term"

Following: "interest of"

Strike: "the"

Insert: "current and future"

5. Page 2, line 6.

Following: "resources;"

Strike: "and"

6. Page 2, line 7.

Following: "sites"

Strike: "."

Insert: "; and (v) utility rights-of-way."

7. Page 3, line 4.

Following: "The"

Insert: "department may require the"

8. Page 3, line 5.

Following: "purposes"

Strike: "shall also"

Insert: "to"

9. Page 3, line 7.

Following: the second "cancellation"

Insert: "or in the event that the successful proposer is offered and does not accept the lease"

10. Page 4, line 9.

Following: "all"

Insert: "permanent"

Following: "improvements"

Strike: ", " through "equipment,"

11. Page 4, line 10 through line 12.

Strike: ", " on line 10 through "enterprise," on line 12

12. Page 4, line 15.

Following: "bonds."

Insert: "(1)"

13. Page 4, line 20.

Following: "beneficiaries."

Insert: "(2) All commercial leases of which the commercial purpose includes the use of a hazardous substance as defined in 75-10-602 must be bonded to ensure a degree of cleanup of the hazardous substance that ensures protection of public health, safety, and welfare and of the environment in a manner that protects the long-term

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SEVENTEENTH LEGISLATIVE DAY - JANUARY 27, 2003

financial interest of the beneficiaries."

And, as amended, do pass. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

1/27/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, January 25, 2003:

<u>TITLE</u>	<u>NAME</u>
Pages:	Jennie Berg, Butte, MT
	Abbey Joyce, Butte, MT
	Sarah Knobel, Conrad, MT
	Rebekah Grewett, Helena, MT
	Abigail Horan, Lewistown, MT
	Peter Nistler, Helena, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, January 27, 2003:

<u>TITLE</u>	<u>NAME</u>	<u>SPONSOR</u>
Pages:	Emily Munn, Helena, MT	Senator Cooney
	Christopher Anderson, Deer Lodge, MT	Senator Anderson
	Kandice Parks, Anaconda, MT	Senator McCarthy
	Addy Lord, Helena, MT	Senator Cooney
	Ashley Wimmer-Barsness, Malta, MT	Senator Kitzenberg
	Ben Hoffmann, Helena, MT	Senator Butcher
	Kadie Golberg, White Sulphur, MT	Senator Stonington
	Marcus Meyer, Helena, MT	Senator Cooney

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/25/2003

HB 79, introduced by Jackson
HB 93, introduced by Lawson
HB 110, introduced by Lange
HB 126, introduced by Fritz
HB 145, introduced by McKenney
HB 167, introduced by Schrumpf
HB 168, introduced by Callahan
HB 183, introduced by Steinbeisser
HB 232, introduced by Devlin

FIRST READING AND COMMITMENT OF BILLS

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The following Senate bills were introduced, read first time, and referred to committees:

SB 275, introduced by Laible, Jent, Younkin, referred to Local Government.
SB 276, introduced by D. Ryan, Cocchiarella, Shea, referred to Education and Cultural Resources.
SB 277, introduced by Curtiss, referred to Energy and Telecommunications.
SB 278, introduced by Butcher, Bales, Black, Bohlinger, Curtiss, Gebhardt, Grimes, Kitzenberg, Laible, Mahlum, McGee, Perry, Taylor, referred to Education and Cultural Resources.
SB 279, introduced by Butcher, referred to Education and Cultural Resources.
SB 280, introduced by Butcher, referred to Education and Cultural Resources.
SB 281, introduced by Butcher, McGee, referred to Judiciary.
SB 282, introduced by Squires, referred to Business and Labor.
SB 283, introduced by Wheat, referred to Judiciary.
SB 284, introduced by Wheat, referred to Local Government.
SB 285, introduced by Wheat, referred to Judiciary.
SB 286, introduced by Sprague, referred to Highways and Transportation.
SB 287, introduced by Sprague, referred to Fish and Game.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 2, introduced by Barkus, Anderson, Bales, Black, Butcher, Curtiss, Esp, Gebhardt, Glaser, Grimes, Keenan, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Taylor, F. Thomas (by request of the Joint Select Committee on Districting and Apportionment), referred to Legislative Administration.

The following House bills were introduced, read first time, and referred to committees:

HB 79, introduced by Jackson, referred to Natural Resources.
HB 93, introduced by Lawson, referred to Highways and Transportation.
HB 110, introduced by Lange, referred to Business and Labor.
HB 126, introduced by Fritz (by request of the Department of Administration), referred to Business and Labor.
HB 145, introduced by McKenney (by request of the State Auditor), referred to Business and Labor.
HB 167, introduced by Schrupf (by request of the Secretary of State), referred to State Administration.
HB 168, introduced by Callahan (by request of the Public Service Commission), referred to Energy and Telecommunications.
HB 183, introduced by Steinbeisser (by request of the State Auditor), referred to Business and Labor.
HB 232, introduced by Devlin, referred to Local Government.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Harrington in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 82 - Senator Kitzenberg moved **SB 82** do pass. Motion carried as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Kitzenberg,

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Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat, Mr. President.

Total 28

Nays: Anderson, Bales, Barkus, Butcher, Curtiss, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 118 - Senator DePratu moved **SB 118** do pass. Motion carried with Senators Roush and Ryan voting nay.

SB 131 - Senator Barkus moved **SB 131** do pass. Motion carried with Senator O'Neil voting nay.

SB 149 - Senator Barkus moved **SB 149** do pass. After discussion, Senator Tester made a **substitute motion** that **SB 149**, second reading copy, be amended as follows :

1. Title, line 7 through line 9.

Following: "EQUALITY AND"

Strike: remainder of line 7 through "PROVISIONS" on line 9

Insert: "FLEXIBILITY IN APPOINTMENT"

2. Title, page 1, line 10.

Strike: "SECTIONS 2-15-1508, 2-15-1821, 2-15-1822, AND"

Insert: "SECTION"

3. Page 1, line 14 through page 3, line 12.

Strike: sections 1 through section 3 in their entirety

Renumber: subsequent sections

4. Page 3, lines 16 and 17.

Strike: "Two commissioners must"

Insert: "At least one commissioner must and no more than two commissioners may"

5. Page 3, line 23.

Following: "Mineral,"

Insert: "and"

Following: "Missoula"

Strike: "," through end of line 23

Insert: " ;"

6. Page 3, line 24.

Following: "~~Clark~~"

Insert: "(b) District 2: Lewis and Clark"

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Following: "Granite,"
Insert: "Ravalli,"
Strike: "Jefferson, Broadwater,"

7. Page 3, line 25.
Following: "Madison,"
Insert: "and"
Following: "Gallatin"
Strike: remainder of line 24 through "Carbon"

8. Page 3, line 26.
Strike: "(b)"
Insert: "(c)"
Strike: "2"
Insert: "3"

9. Page 3, line 27.
Following: "Richland,"
Insert: "Dawson,"
Following: "Cascade,"
Insert: "Meagher, Broadwater, Jefferson,"
Following: "~~and~~"
Insert: "and"
Following: "~~;~~~~and~~"
Insert: " ; and"

10. Page 3, line 28.
Strike: ". Lewis and Clark, Meagher,"
Insert: "(d) District 4:"

11. Page 3, line 29.
Strike: "Dawson,"
Strike: "and"

12. Page 3, line 30.
Following: "~~Grass~~"
Insert: ", Carbon, Stillwater, Sweet Grass, and Park"

Amendment **not** adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 149 - Senator Barkus' do pass motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Nays: Bales, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 159 - Senator Johnson moved **SB 159** do pass. Motion carried with Senators Ellingson and Elliott voting nay.

SB 77 - Senator Johnson moved **SB 77** do pass. Motion carried unanimously.

SB 160 - Senator Cobb moved **SB 160** do pass. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Harrington moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 8, requiring 2/3 of the entire Legislature, received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 21

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 35 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 66 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 81 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

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Nays: Stapleton.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 96 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 109 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Butcher, O'Neil, Stapleton, Taylor.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 110 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton,

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Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 162 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 165 failed as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 172 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 8 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

SB 160 - Senator Zook moved **SB 160** be taken from third reading and rereferred to the committee on Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, January 28, 2003. Motion carried.

Senate adjourned at 2:56 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTEENTH LEGISLATIVE DAY**

Helena, Montana
January 28, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the seventeenth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 275, SB 276, SB 277, SB 278, SB 279, SB 280, SB 281, SB 282, SB 283, SB 284, SB 285, SB 286, SB 287.**

Correctly engrossed: **SB 137.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):

1/28/2003

SB 213, do pass. Report adopted.

SB 242, do pass. Report adopted.

HB 31, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

1/28/2003

SB 16, introduced bill, be amended as follows:

1. Page 3, line 7.

Strike: "4"

Insert: "8"

2. Page 3, line 8.

Following: "transferred."

Insert: "In cases where the cumulative effect of other transfers of territory out of the district in the previous 8 years is equal to or greater than 25% of the district's taxable value, the following additional factors must be considered and weighed in the decision:

(A) the district's rate of passage of discretionary levies placed before the voters over the previous 8 years;

(B) the district's reduction or elimination of instructional staff or programs over the previous 8 years; and

(C) any increase in district taxes over the previous 8 years and the likely increase in district taxes if the transfer is granted."

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

1/28/2003

SB 189, do pass. Report adopted.

SB 257, introduced bill, be amended as follows:

1. Page 4, line 18.

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Following: "court"
Strike: "of the 10-day"
Insert: "stating the statutory time deadline for a"
Following: "hearing"
Strike: "requirement"

2. Page 4, line 19.
Strike: "requirement"
Insert: "time deadline"

And, as amended, do pass. Report adopted.

HB 70, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman): 1/27/2003
SJR 9, be adopted. Report adopted.
HB 83, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman): 1/27/2003
SB 95, introduced bill, be amended as follows:

1. Title, page 1, line 7 through line 9.
Following: "ABANDONMENT;" on line 7
Strike: remainder of line 7 through "WELFARE;" on line 9

2. Page 3, line 28.
Following: "facility;"
Insert: "(b) a person providing care in a day-care facility;"
Renumber: subsequent subsections

3. Page 21, line 26.
Following: "Evidence"
Insert: "at the discretion of the presiding judge"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman): 1/28/2003
SB 145, introduced bill, be amended as follows:

1. Title, page 1, line 6.
Following: "MEMBERSHIP SERVICE"
Insert: "AND SERVICE"

2. Page 1, line 13.
Following: "membership service"
Insert: "and service"

3. Page 1, line 14.

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Following: "peace corps,"

Strike: "americorps,"

Following: "or"

Strike: "the freedom corps"

Insert: "successful completion of a term of service in a national service position as described in the National and Community Service Act of 1990, 42 U.S.C. 12501, et seq"

4. Page 1, line 15.

Following: "membership service"

Insert: "and service"

Strike: "retirement"

5. Page 1, line 16.

Following: "member's"

Insert: "volunteer"

6. Page 1, line 17.

Following: "membership service"

Insert: "and service"

7. Page 1, line 24.

Following: "service"

Insert: "credit"

8. Page 1, line 25.

Following: "purchase service"

Insert: "credit"

And, as amended, do pass. Report adopted.

SB 243, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/27/2003

HB 63, introduced by Kasten

HB 94, introduced by Lawson

HB 105, introduced by B. Olson

HB 116, introduced by Kaufmann

HB 164, introduced by Callahan

HB 170, introduced by Parker

HB 171, introduced by Parker

HB 187, introduced by Gallus

HB 196, introduced by Fisher

HB 207, introduced by Laslovich

HB 208, introduced by Shockley

HB 209, introduced by Shockley

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HB 210, introduced by Shockley

HB 212, introduced by Shockley

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:30 p.m. this day for purpose of party caucuses. Motion carried.

Senate recessed at 1:12 p.m.

Senate reconvened at 1:28 p.m.

Roll Call. All members present. Quorum present.

Senator Stonington excused at this time.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 77 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Bales, Nelson, O'Neil, Story.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 82 passed as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat, Mr. President.

Total 28

Nays: Anderson, Bales, Barkus, Butcher, Curtiss, Esp, Gebhardt, Glaser, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook.

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Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 118 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Esp, Roush, Ryan.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 131 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Stonington present at this time.

SB 149 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr.

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President.
Total 28

Nays: Bales, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 159 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Ellingson, Elliott, Mangan, Squires.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 163 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Elliott, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

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SB 82 - Senator Sprague moved he be allowed to change his vote on **SB 82**, third reading this legislative day, from yea to nay. Motion carried.

Senator Stonington moved that she be allowed to have her vote recorded for bills voted on in third reading this legislative day in her absence, i.e., yea on **SB 77**; nay on **SB 82**; yea on **SB 118**; yea on **SB 131**. Motion carried.

SB 149 - Senator Tropila moved he be allowed to change his vote on **SB 149**, third reading this legislative day, from yea to nay. Motion carried.

SB 77 - Senator Bales moved he be allowed to change his vote on **SB 77**, third reading this legislative day, from yea to nay. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Butcher in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 164 - Senator Mangan moved **SB 164** do pass. Motion carried unanimously.

SB 195 - Senator Grimes moved **SB 195** do pass. Motion carried unanimously.

HB 21 - Senator Gebhardt moved **HB 21** be concurred in. Motion carried unanimously.

SB 258 - Senator Thomas moved **SB 258** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Butcher moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 28, 2003

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/28/2003

HB 112, introduced by Pattison
HB 309, introduced by R. Brown

MOTIONS

HB 79 - Senator Tash moved **HB 79** be taken from the committee on Natural Resources and rereferred to the committee on Fish and Game. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, January 29, 2003. Motion carried.

Senate adjourned at 3:03 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
NINETEENTH LEGISLATIVE DAY**

Helena, Montana
January 29, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Butcher, McCarthy and Tester, excused. Quorum present.

The presiding officer has authenticated the daily journal for the eighteenth legislative day.

Senators Butcher and Tester present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **SB 16, SB 95, SB 145, SB 257.**

BUSINESS AND LABOR (Mahlum, Chairman):
SB 151, introduced bill, be amended as follows:

1/28/2003

1. Page 13, line 14.

Strike: "Lewis and Clark County"

Insert: "the first judicial district"

And, as amended, do pass. Report adopted.

SB 216, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):
SB 173, do pass. Report adopted.

1/29/2003

TAXATION (DePratu, Chairman):
HB 58, be concurred in. Report adopted.
HB 188, be concurred in. Report adopted.

1/29/2003

ADVERSE COMMITTEE REPORT

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):
SB 215, do **not** pass.

1/29/2003

MOTIONS

SB 245 - Senator Bohlinger moved that Becker, Gibson, Gutsche and Lindeen be added as sponsors to **SB 245**. Motion carried.

SB 275 - Senator Mahlum moved **SB 275** be taken from the committee on Local and Government and rereferred to the committee on Business and Labor.

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NINETEENTH LEGISLATIVE DAY - JANUARY 29, 2003

SJR 10 - Senator O'Neil moved that he be allowed to add sponsors to **SJR 10**. Motion carried.

HB 91 - Senator Grimes moved **HB 91** be taken from second reading and rereferred to the committee on State Administration. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 288, introduced by Mangan, referred to Local Government.

SB 289, introduced by Ellingson, referred to Taxation.

SB 290, introduced by Tester, referred to Energy and Telecommunications.

SB 291, introduced by Butcher, referred to Education and Cultural Resources.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 10, introduced by O'Neil, Black, Brueggeman, Curtiss, Everett, Fuchs, Grimes, Hedges, Laible, A. Olson, Pattison, Sales, Shockley, Sinrud, referred to Judiciary.

SJR 11, introduced by Schmidt, Grimes, referred to Public Health, Welfare and Safety.

The following House bills were introduced, read first time, and referred to committees:

HB 63, introduced by Kasten, referred to Fish and Game.

HB 94, introduced by Lawson, referred to Local Government.

HB 105, introduced by B. Olson (by request of the Department of Transportation), referred to Highways and Transportation.

HB 112, introduced by Pattison (by request of the Department of Transportation), referred to Highways and Transportation.

HB 116, introduced by Kaufmann (by request of the Department of Justice), referred to Judiciary.

HB 164, introduced by Callahan, referred to Business and Labor.

HB 170, introduced by Parker (by request of the Department of Justice), referred to Judiciary.

HB 171, introduced by Parker (by request of the Department of Justice), referred to Judiciary.

HB 187, introduced by Gallus (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 196, introduced by Fisher (by request of the Department of Labor and Industry), referred to Business and Labor.

HB 207, introduced by Laslovich (by request of the Department of Revenue), referred to Taxation.

HB 208, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.

HB 209, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.

HB 210, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.

HB 212, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.

HB 309, introduced by R. Brown, Balyeat, D. Brown, Brueggeman, Devlin, Fisher, Fuchs, Kasten, Laszloffy, Lehman, McNutt, Mood, A. Olson, Ripley, Sinrud, Stapleton, Steinbeisser, F. Thomas, Younkin, referred to Joint Select Committee on Districting and Reapportionment.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 29, 2003

SB 164 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

SB 195 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Esp, Story.

Total 2

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

SB 258 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Paired: Thomas, Aye; McCarthy, No.

Absent or not voting: None.

Total 0

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 29, 2003

Excused: None.
Total 0

HB 21 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Bales, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: McCarthy.
Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Cooney in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 34 - Senator Barkus moved **SB 34** do pass. Motion passed with Senator Elliott voting nay.

SB 86 - Senator Zook moved **SB 86** do pass. Motion carried unanimously.

SB 135- Senator Thomas moved **SB 135** be placed at the bottom of the second reading board. Motion carried.

SB 142 - Senator Wheat moved **SB 142**, second reading copy, be amended as follows :

1. Title, page 1, lines 8 and 9.

Following: "OFFICER OR"

Insert: "THE PRIVACY OF"

Following: "TO" on line 9

Strike: "PROTECT" through "OF"

Insert: "KEEP PRIVATE"

2. Page 3, lines 12 through 16.

Following: "to the" on line 12

Strike: "privacy or"

Insert: ":

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 29, 2003

- (i) public safety;
- (ii)"

Following: "of any"

Strike: "person" through "have" on line 16

Insert: "elected public officer or judge; or
(iii) privacy of any public employee who has"

Strike: "their"

Insert: "the employee's"

3. Page 3, line 18.

Strike: "(d)"

Insert: "(c)"

Amendment **adopted** unanimously.

SB 142 - Senator McNutt moved **SB 142**, as amended, do pass. Motion carried unanimously.

SB 202 - Senator Johnson moved **SB 202** do pass. Motion carried unanimously.

SB 137 - Senator DePratu moved **SB 137** do pass. After discussion, Senator Ellingson made a substitute motion that **SB 137**, second reading copy, be amended as follows :

1. Page 1, line 17.

Following: "management"

Insert: ", consistent with 77-1-202"

2. Page 1, line 17 through line 19.

Strike: "It is the intent" on line 17 through "held." on line 19

3. Page 1, line 20 through line 21.

Strike: "To fulfill" on line 20 through "beneficiaries, the" on line 21

Insert: "The"

Amendment **not** adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: McCarthy.

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 29, 2003

Total 1

SB 137 - Senator DePratu's do pass motion carried unanimously.

SB 189 - Senator Curtiss moved **SB 189** do pass. Motion **failed** as follows:

Yeas: Bales, Black, Cobb, Curtiss, Gebhardt, McGee, O'Neil, Perry, Sprague, Thomas, Mr. President.

Total 11

Nays: Anderson, Barkus, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook.

Total 38

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

SB 189 - Senator F. Thomas moved **SB 189** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Bales, Butcher, Curtiss, McGee.

Total 4

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

SB 213 - Senator Nelson moved **SB 213** do pass. Motion carried unanimously.

SB 242 - Senator Perry moved **SB 242** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Curtiss, McGee, Stapleton, Taylor.

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 29, 2003

Total 4

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

SJR 9 - Senator Nelson moved **SJR 9** be adopted. Motion carried unanimously.

SB 135 - Senator F. Thomas moved **SB 135** do pass. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Cooney moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SR 2 - Senator Grimes moved **SR 2** be taken from the committee on Legislative Administration and rereferred to the Joint Committee on Redistricting and Apportionment. Motion carried.

SB 233 - Senator Zook moved **SB 233** be taken from the committee on Natural Resources and rereferred to the committee on Finance and Claims. Motion carried.

SB 242 - Senator Schmidt moved she be allowed to be shown as voting yea on **SB 242**, second reading this legislative day. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, January 30, 2003. Motion carried.

Senate adjourned at 2:37 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWENTIETH LEGISLATIVE DAY**

Helena, Montana
January 30, 2003

Senate Chambers
State Capitol

Senate convened at 1:04 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Stapleton, excused. Quorum present.

The presiding officer has authenticated the daily journal for the nineteenth legislative day.

Senator Ellingson excused at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 288, SB 289, SB 290, SB 291, SJR 10, SJR 11.**

Correctly engrossed: **SB 142, SB 151.**

BUSINESS AND LABOR (Mahlum, Chairman):
SB 229, introduced bill, be amended as follows:

1/29/2003

1. Title, page 1, line 7.

Strike: "AGENT OR BROKER"

Insert: "INSURANCE PRODUCER"

2. Page 1, line 24.

Strike: "agent or broker"

Insert: "insurance producer"

3. Page 2, line 11.

Strike: "agent or broker"

Insert: "insurance producer"

4. Page 3, line 15.

Strike: "agent or broker"

Insert: "insurance producer"

5. Page 4, line 13.

Strike: "agent or broker"

Insert: "insurance producer"

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

1/29/2003

HB 78, be concurred in. Report adopted.

HB 153, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

1/30/2003

SB 28, introduced bill, be amended as follows:

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 30, 2003

1. Title, page 1, line 6 through line 8.

Following: "LOANS;" on line 6

Strike: remainder of line 6 through "CAPACITY;" on line 8

2. Title, page 1, line 17.

Following: "SECTIONS"

Strike: "31-1-702,"

3. Page 1, line 22 through page 2, line 1.

Strike: section 1 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

HB 1, be concurred in. Report adopted.

HB 16, be concurred in. Report adopted.

HB 46, be concurred in. Report adopted.

HB 162, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

1/29/2003

SB 79, do pass. Report adopted.

HB 25, be concurred in. Report adopted.

HB 34, be concurred in. Report adopted.

HB 38, be concurred in. Report adopted.

HB 39, be concurred in. Report adopted.

HB 69, be concurred in. Report adopted.

SB 215 - Senator Toole rose on a point of parliamentary inquiry as to the Adverse Committee Report on **SB 215** on the nineteenth legislative day and questioned the status of the bill. Senator Thomas explained that if the committee report is adopted, the bill would go on to second reading with a do not pass motion. Senator Toole stated he would like to have a meeting of the Rules committee to address the issue. Senator Thomas stated the Rules Committee could meet to discuss the issue.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/29/2003

HB 156, introduced by Matthews

HB 217, introduced by Brueggeman

HB 238, introduced by Andersen

HB 248, introduced by Balyeat

HB 261, introduced by Haines

HB 315, introduced by Lawson

HB 323, introduced by Jent

MOTIONS

HB 1 - Senator Zook moved the rules be suspended for the purpose of placing **HB 1** on second and third reading this legislative day. Motion carried.

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 30, 2003

HB 1 - Senator Zook moved that **HB 1** be placed on second and third reading this legislative day. Motion carried.

SB 241 - Senator Shea moved that Perry be added as sponsor to **SB 241**. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 292, introduced by Cocchiarella, Brueggeman, Kitzenberg, Mahlum, Mood, D. Ryan, Wanzenried, referred to Business and Labor.

SB 293, introduced by Wheat, referred to Local Government.

SB 294, introduced by Gebhardt, Elliott, Parker, Tropila, Witt, referred to Taxation.

SB 295, introduced by Butcher, Jackson, Black, Gebhardt, Witt, referred to Highways and Transportation.

SB 296, introduced by Taylor, Cooney, referred to State Administration.

SB 297, introduced by Glaser, Erickson, Fuchs, Lewis, Stonington, Story, referred to Taxation.

SB 298, introduced by F. Thomas, Mood, R. Brown, Cocchiarella, Keenan, Laszloffy, McGee, McNutt, Shea, Stapleton, referred to Judiciary.

SB 299, introduced by F. Thomas, referred to Education and Cultural Resources.

SB 300, introduced by Grimes, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Keenan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 1 - Senator Zook moved **HB 1** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise, report, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Keenan moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senators Cocchiarella and Shea excused at this time.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 1 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 30, 2003

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Shea, Stapleton.
Total 3

SB 34 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Elliott.
Total 1

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Shea, Stapleton.
Total 3

SB 86 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Shea, Stapleton.
Total 3

SB 135 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 30, 2003

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Shea, Stapleton.
Total 3

SB 137 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Shea, Stapleton.
Total 3

SB 202 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Shea, Stapleton.
Total 3

SB 213 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 30, 2003

Nays: Esp, Glaser.
Total 2

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Shea, Stapleton.
Total 3

SB 242 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Curtiss, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Shea, Stapleton.
Total 3

SJR 9 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Shea, Stapleton.
Total 3

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Black in the chair.

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 30, 2003

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 16 - Senator Mangan moved **SB 16** do pass. Motion carried with Senator Tropila voting nay.

Senator Tropila excused at this time.

SB 95 - Senator Stonington moved **SB 95** do pass. Motion carried unanimously.

SB 145 - Senator Bohlinger moved **SB 145** do pass. Motion carried as follows:

Yeas: Barkus, Black, Bohlinger, Cobb, Cooney, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Tash, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 36

Nays: Anderson, Bales, Butcher, Cromley, Curtiss, Grimes, McGee, O'Neil, Story, Taylor.

Total 10

Absent or not voting: None.

Total 0

Excused: Cocchiarella, Shea, Stapleton, Tropila.

Total 4

SB 173 - Senator McNutt moved **SB 173** do pass. Motion carried unanimously.

SB 216 - Senator Tester moved consideration of **SB 216** be passed for the day. Motion carried..

SB 243 - Senator Wheat moved **SB 243** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 46

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Cocchiarella, Shea, Stapleton, Tropila.

Total 4

SB 257 - Senator Cooney moved **SB 257** do pass. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Black moved the Committee of the Whole report be adopted. Report adopted unanimously.

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REPORTS OF SELECT COMMITTEES

JOINT SELECT COMMITTEE DISTRICTING AND APPORTIONMENT: (Barkus, Ch.)
SR 2, introduced resolution, be amended as follows:

1/30/2003

1. Page 1, line 14.

Strike: "5%"

Insert: "approximate 10% total"

Strike: "allowance"

Insert: "range"

Following: "plan"

Strike: "was"

2. Page 1, line 15.

Strike: "used"

Insert: "is not in support of legitimate governmental interests, but is"

Following: "partisan"

Insert: "political"

Following: "gain"

Strike: ", that"

Insert: "; and

WHEREAS,"

Following: "1%"

Insert: "total"

Following: "deviation"

Insert: "range"

3. Page 2, line 10.

Strike: "mean-spirited,"

And, as amended, be adopted. Report adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: Cocchiarella, Shea, Stapleton, Tropila.

Total 4

SR 2 - Minority Report on SR 2 is as follows:

Minority Report on SR 2 and HR 3 Regarding The Recommendation to the Montana Districting and Apportionment Commission

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Submitted by Joint Legislative Committee on Districting and Apportionment members Senator Gerald Pease and Representative Joey Jayne

We, Senator Gerald Pease and Representative Joey Jayne, respectfully submit this report to the people of Montana, the 2003 Legislature, and the Montana Districting and Apportionment Commission in opposition to the findings and recommendation outlined in SR 2 and HR 3.

The report contains two parts. Part 1 covers the justifications for full legislative support of the plan presented by the Districting and Apportionment Commission. Part 2 corrects misinformation and refutes the findings outlined in SR 2 and HR 3.

The 2000 Districting Commission faced a monumental task due to the dramatic changes in Montana's population documented by the 2000 Census. Montana's population increased by 103,310 people, 12.9%, in the last decade. This compares to an increase of only 12,275 people, 1.6%, recorded in the 1990 Census.

An analysis completed by the Legislative Services Division confirmed that Montana's current 100 house districts were in need of major changes in order to comply with the requirements of the 14th Amendment of the United States Constitution and the Montana Constitution that guarantees the principle of "one person, one vote."

The 2000 Census reported American Indian citizens are the fastest growing demographic group in Montana. Currently 66,320 Montanans, 7.3%, identify themselves as American Indian or as American Indian and one or more races. This is an increase of 39% over the 1990 Census numbers.

The sheer magnitude of these documented changes in census numbers requires a redistricting plan that is significantly different from the current established legislative districts.

Part 1: Justifications for the Plan Presented by the Districting and Apportionment Commission

The 2000 Districting Commission upheld all Montana State and United States Constitutional and legal requirements for redistricting. Four (4) mandatory criteria and three (3) discretionary criteria were adopted unanimously by the Commission on November 16, 2000, to guide the commission in development of the new plan for Montana's 100 House and 50 Senate Districts.

The Commission held 14 statewide, regional public hearings and 6 hearings in Helena, Montana, on plan proposals. This was more than any previous commission. Three (3) hearings were held to specifically gather testimony from legislators on plan alternatives.

Commission members attended a legislative hearing at the request of the Senate and House State Administration Committees during the August 2002 Special Session. The Commission also had members at all legislative hearings concerning redistricting at the 2003 Session to provide legislators with information and gather recommendations.

More than 1600 Montanans commented on the redistricting proposals in the past 2 years. The plan before the legislature was developed and amended as a result of that public testimony. The plan submitted by the Commission was preferred by more Montanans of both political parties than any other plan.

Each district, adopted in the plan, was specifically described and accompanied by an explanation of how it met all constitutional and statutory criteria in comprehensive motions adopted by the Commission.

The plan is of historic significance because for the first time 6 house districts and 3 senate districts were adopted to provide American Indian citizens with the opportunity to elect candidates of their own choice to represent their

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communities at the Montana Legislature.

Part 2: Refutation of findings and recommendation outlined in SR 2 and HR 3.

Finding 1: WHEREAS, the Senate (and House) contends that the 5% population deviation allowance contained in the plan was used for political gain rather than for the original intent of the law, that the Constitution is clear in language that the districts "shall be as nearly equal in population as is practicable", and that a 1% population deviation is both practicable and possible (Page 1, Lines 14-17).

Refutation: The current plan follows a plus or minus criterion of 5%. The United States Supreme Court established the 5% deviation. A plan within that criterion is presumed to be constitutional and therefore in compliance with the 14th Amendment that requires the one person, one vote.

The Commission obtained a smaller overall population deviation range than both the 1990 and 1980 Commissions. The overall population deviation range, for adopted 2000 house districts, was 9.85%. This compares to an overall deviation range of 9.96% under the 1990 plan and 10.94% in the 1980 plan.

At the Commission's public hearings, "Plan 200" was the preferred plan of most Republicans who testified. Plan 200 has an overall deviation range of 9.86%. The Republican preferred alternative has almost an identical deviation range as the plan adopted by the Commission.

The 5% deviation criterion was adopted by all previous Montana redistricting commissions. The motion to use the 5% criterion for the 2000 Redistricting Commission was made by Republican Commissioner Jack Rehberg and adopted unanimously by the Commission.

Use of the 5% deviation criterion gives the Commission the needed flexibility to comply with the adopted mandatory criteria and address the discretionary criteria to establish districts with similar communities of interest.

The 5% deviation is widely accepted among the states. 41 of the 43 states, which have completed their redistricting plans, are within the 5% population deviation.

Using a 1% deviation would result in a violation of the Section 2 of the Voting Rights Act.

The use of the 1% criterion would change both the Indian majority house districts and the senate district on the Crow and Northern Cheyenne Reservations to Indian minority districts.

An analysis of the use of the 1% criterion demonstrates the American Indian voting age population of adopted House District 29 (Northern Cheyenne and Crow Reservations) would decrease from 57.3% down to 47.6%. The American Indian voting age population of the adjoining House District 30 (Crow Reservation) would decrease from 55.2% down to 45.5%. The senate district which encompasses both the two reservation house districts would have its American Indian voting age population reduced from 56.3% down to 46.6%.

The American Indian voters on the Crow and Northern Cheyenne Reservations would once again be reduced to minority voting status in their own homelands. American Indian residents of these two house districts and the senate district would no longer be given the opportunity to elect a candidate of their choice.

An independent analysis of political leanings of the 100 adopted house districts was conducted by the Great Falls Tribune in November of 2002. The Tribune analyst concluded the Commission's plan would likely result in 40 "safe" Republican districts, 30 "safe" Democratic districts, and 30 "swing" districts in which a candidate of either political party would have a realistic opportunity to be elected.

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It is nonsense to argue that a plan that gives the Republicans a 10 "safe" seat advantage over Democrats is unfair to Republican interests.

It is noted in testimony following the implementation of the 1990 Republican Commission's plan that the Republicans gained 14 seats in the House and 11 seats in the Senate in the next election. The 1990 plan established the groundwork for complete Republican control of both houses of the legislature since 1994.

Reducing the population deviation criterion to 1% would greatly reduce the Commission's flexibility to draw districts that keep established Montana communities of similar interest intact. It would force the Commission to draw more districts that split cities, towns, counties, and American Indian reservations.

Finding 2: WHEREAS, the Senate contends that the majority of the Commission failed to consider the criterion of compact districts in creating several House and Senate Districts that are over 200 miles from one end to the other;(Page 1, Lines 18-20)

Refutation: Montana is one of the largest and least densely populated states in the country. Because of our unique geography, districts of large geographic size are necessary. All previous commissions drew districts which were criticized for their large size. However, the courts have recognized that Montana's large geography sometimes demands creation of large districts to guarantee the principle of "one person, one vote."

The dramatic population losses in rural, eastern Montana counties documented by the 2000 Census requires some districts to substantially increase in size. In addition, meeting the mandatory criterion of complying with Section 2 of the Voting Rights Act requires districts to cover large geographic areas.

A great deal of attention has been made of the size of the adopted House District 1 which includes portions of the Flathead and Blackfeet Indian Reservations. This new district is no larger in size than 11 existing districts established by the 1990 Republican Commission.

Finding 3: WHEREAS, the Senate contends that the American Indians have been isolated and that other minority groups were ignored when several districts in Montana were established; (Page 1, Lines 21-22)

Refutation: No testimony or factual evidence was provided to the Commission or the Joint Legislative Committee that documented American Indian citizens were isolated. It is difficult to conclude that by increasing the legislature's composition by one Indian majority house seat and two senate seats that it isolates Indian voters.

The finding is false. Contrary to "isolating" American Indian voters, the Commission's plan provides more opportunity for reservation community residents to actively participate in Montana's political system.

The Commission's plan does not ignore other minority groups. Census figures document a substantial growth in minority residents throughout Billings. The plan recognizes these census changes and creates 5 districts in Billings, Montana, in which minority voters have the opportunity to have a significant impact in legislative elections.

An alternative plan for Billings, Montana, known as the "Birdwell Amendment" was proposed. An analysis of the Birdwell Amendment found that minority residents would only have significant impact in 3 districts as opposed to the 5 districts created by the Commission's plan.

Former Billings Republican Representative Bruce Simon testified that under the Commission's plan, if the Billings' Southside Neighborhoods held a public meeting, it would require 4 representatives to attend rather than one. It is hard to argue that having 4 representatives listening

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to neighborhood concerns rather than one, gives that part of Billings less representation. This finding is also obviously false.

Finding 4: WHEREAS, the Senate contends that American Indian populations were used as the predominant criterion in tentatively establishing six House Districts and three Senate Districts in strict violation of the mandatory criterion that race may not be the predominant factor to which the traditional discretionary criteria are subordinated; (Page 1, Lines 23-26)

Refutation: No testimony or factual evidence was provided to the Commission or the Joint Legislative Committee that substantiates this finding. The Commission received testimony from hundreds of residents of the adopted Indian majority districts providing overwhelming documentation that those communities share rich cultural traditions, language, family and social networks, educational issues, voting patterns, political alliances, and socio-economic characteristics. Residents also share common interests created by the unique status of their tribal governments and their relationships with other local, state, and federal governments.

The evidence clearly documents race is only one of many shared community characteristics and is not the predominant characteristic in the creation of these districts.

Most of the Indian majority districts have voting age populations of American Indians in the range of 55%. The 94 non-Indian majority districts have voting age populations of white voters in the range of 90%. No one would suggest race was used as the predominant factor in latter districts. As with the Indian majority districts, race is only one characteristic the non-Indian districts share.

Current Republican Districting Commissioner Dean Jellison was quoted in the November 23, 2002 edition of the Missoulian as saying, "they (Indian majority districts) look funny but I think they are legally defensible. From a legal viewpoint, I think it is a reasonable thing to do."

The notion that one can "support Montana Indian voting rights" and not support the creation of 6 house and 3 senate districts is not credible. Montana Indian voters for the first time have the opportunity to elect candidates of their choice in both the House and the Senate. Opponents of these districts have provided no alternative plans on how to achieve proportional representation for American Indian communities.

Finding 5: WHEREAS, the Commission failed to adopt a criterion of consideration of existing district lines as the previous Commission had adopted; (Page 1, Lines 27-28)

Refutation: The 2000 Census documented major growth and shifts in Montana's population. The Legislative Services Division's analysis documented that the current legislative districts had a population deviation range from the ideal district size of 9022 people by 86%. Currently 80 house districts are outside the 5% ideal population deviation range.

It was the constitutionally mandated task of the Commission to create new districts that had a plus or minus 5% population deviation range. It is mathematically impossible to preserve existing districts in most cases when dealing with population changes of this magnitude.

The 1990 Commission was dealing with an overall population change of only 1.6% compared to the 12.9% change in 2000. One would think with such a small population change that the 1990 plan would have been able to preserve more existing districts in their redistricting plan. Even though the 1990 Commission adopted this criterion, it was widely ignored and the 1990 plan drew new districts significantly different from the existing ones.

The 2000 Commission recognized the criterion of trying to draw districts that were the same as the current districts would be fraudulent and in violation of both the United States and Montana Constitutions which each uphold the principle of "one person, one vote."

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Finding 6: WHEREAS, the Commission has disregarded, in several instances, the discretionary criteria adopted by the Commission on April 18, 2001, by dividing many towns, cities, and counties, while giving little or no regard to keeping communities of interest intact (Page 1, 29-30, Page 2, Line 1).

Refutation: Mandatory and discretionary criteria were adopted unanimously by the 2000 Commission on November 16, 2000. All motions to adopt the criteria were made by Republican Commissioners Elaine Sliter and Jack Rehberg.

The Commission's plan paid close attention to communities of interest when drawing the districts. After every public hearing, amendments were suggested to address the issue of communities of interest. Republican elected officials suggested most of the amendments adopted by the Commission.

Each district adopted in the plan was specifically described and accompanied by explanations of how it met all constitutional and statutory criteria in comprehensive motions adopted by the Commission.

The Commission made a concerted effort to reunite towns and counties which had been divided during the 1990 redistricting plan. The Commission received objections from only the residents of Lewistown, Montana and Anaconda, Montana, concerning the division of those towns. In both cases, there was also testimony in support of the division. Ultimately these towns were divided to balance other mandatory and discretionary criteria. Under the new plan, both Lewistown and Anaconda will now have two rather than one representative taking their concerns to the Legislature.

Because of the major changes reported in the 2000 Census it was much more difficult to keep counties intact. Forty Montana counties either lost population or did not grow at the state growth rate of 12.9%. Great emphasis was given to accommodate the desires of counties but it is mathematically impossible to keep them all intact. That is why this is a discretionary criterion which the Commission must balance against other criteria.

Finding 7: WHEREAS, the arbitrary assignment of holdover Senators to districts that did not elect them is at best wrong, blatantly unethical, and simply unfair to the electors; (Page 2, Line 2-3)

Refutation: The Commission has been fair in the assignment of holdover Senators. With every new redistricting plan, a handful of holdover senators will be unhappy with their district assignments. The 2000 Commission took extensive public testimony on the assignment of holdover senators, made amendments to accommodate Republican senators' concerns, and came up with a plan that minimizes election transition problems.

In public testimony before both the Commission and the Joint Legislative Committee on Redistricting only 2 of 25 holdover senators, Senators Sherm Anderson and John Bohlinger, raised objections to their district assignments. Conversely 23 of 25 holdover senators have not opposed their district assignments.

The Commission amended the plan to fully address the concerns of both Sen. Gary Perry (R-Manhattan) and Sen. Keith Bales (R-Otter) in the assignment of new districts.

Sen. Jerry Black (R-Shelby) testified in support of the Commission's assignment of his district and thanked them for their work.

Recommendation to Commission: That the Senate (& House) rejects the Legislative Redistricting Plan for the reasons stated above, requests that the Commission reconvene and adopt a plan that conforms to the mandatory and discretionary criteria as set forth by the 1972 Constitutional Convention, and contends that the majority of the Commission has performed a constitutional injustice to the electorate and the elected legislators of Montana, that the plan has been conceived in a mean-spirited, partisan fashion that disregards the mandatory criteria as set forth by the 1972 Constitutional Convention and the discretionary criteria adopted by the Commission itself, that the Commission's exercise in political gerrymandering is unacceptable to the citizens of the state of Montana, and that the legislative redistricting plan must be redone.

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Refutation: The Republican majority members of the Joint Legislative Committee have made only one "global" recommendation to the Commission which is to redraw the entire plan. Past legislatures provided previous commissions with several specific recommendations to change the redistricting plan. Previous commissions were routinely able to accommodate about half of those recommendations in their final plans.

The Republican majority members of the Joint Legislative Committee have completely failed their responsibility to suggest specific changes. Instead they have chosen to engage in name-calling and political posturing. This is a disservice to the members of the 2003 Legislature and the people of Montana.

The authors of this Minority Report have reviewed each of the seven findings of SR 2 and HR 3 and have found they lack merit and substance. Consequently, we cannot support either of these resolutions and would urge all fair-minded legislators to vote against these resolutions.

Conclusion

It is the finding of the authors of this report that the 2000 Districting Commission upheld all Montana and United States Constitutional and legal requirements for redistricting in all their actions.

It is our strong recommendation that members of the 2003 Legislature personally contact the Commission if they desire further specific amendments to the plan. The Republican majority members of the Joint Legislative Committee have failed to provide this information.

The time is now for the 2003 Legislature to do what other legislatures have done in the past. We would urge all our legislative colleagues to make recommendations and return to conducting the people's business.

The Commission should be congratulated rather than personally attacked for their hard work. Redistricting plans never satisfy everyone, but they need to be done so that we can fulfill the promise of "one person, one vote" for all Montana's citizens.

The Commission has presented a plan that is fair, constitutional, legal, and will serve all the citizens of Montana in the coming decade. We would urge the swift adoption of the Commission's plan.

signed: Senator Gerald Pease
January 29, 2003

signed: Representative Joey Jayne

UNFINISHED BUSINESS

Senator Thomas informed the Senate that he and the Minority Leader would be meeting with Greg Petesch, Code Commissioner, to discuss action on the adverse report on **SB 215**, rather than calling a Rules Committee meeting.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, January 31, 2003. Motion carried.

Senate adjourned at 2:39 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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ADDENDUM**

Helena, Montana
2003

Senate Chambers
State Capitol

REPORTS OF STANDING COMMITTEES

BILLS REPORT

Examined by the sponsor and found to be correct: **SJR 13, SJR 31.**

Signed by the President at 9:00 a.m., April 24, 2003: **SJR 13, SJR 31.**

Signed by the Secretary of the Senate at 10:00 a.m., April 24, 2003: **SJR 13, SJR 31.**

Signed by the Speaker at 10:05 a.m., April 24, 2003: **SJR 13, SJR 31.**

Delivered to the Secretary of State at 9:46 a.m., April 28, 2003: **SB 46, SJR 13, SJR 31.**

MESSAGES FROM THE GOVERNOR

April 26, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 138** sponsored by Senator Cobb, **Senate Bill 320** sponsored by Senator Tester, **Senate Bill 384** sponsored by Senator Mangan et al., **Senate Bill 399** sponsored by Senator Bohlinger et al., **Senate Bill 464** sponsored by Senator Keenan, and **Senate Bill 478** sponsored by Senator Story et al. on April 26, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Free Conference Committee Report No.1 adopted:

4/26/2003

HB 2, introduced by Lewis

HB 13, introduced by Lewis

HB 247, introduced by Harris

SB 424, introduced by Jent

SB 485, introduced by B. Ryan

Governor's amendments to Senate bill **concurred in** and returned to the Senate:

4/26/2003

SB 484, introduced by Mangan

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Senate amendments to House bill concurred in:

4/30/2003

HB 424, introduced by Jent

REPORTS OF STANDING COMMITTEES

BILL REPORT

Examined by the sponsor and found to be correct: **SJR 29, SJR 32, SR 11.**

Signed by the President at 4:30 a.m., April 26, 2003: **SJR 29, SJR 32.**

Signed by the President at 4:30 a.m., April 30, 2003: **SR 11.**

Signed by the Secretary of the Senate at 9:30 a.m., April 28, 2003: **SJR 29, SJR 32, SR 11.**

Signed by the Speaker at 10:00 a.m., April 28, 2003: **SJR 29, SJR 32.**

Delivered to the Secretary of State at 10:00 a.m., April 29, 2003: **SJR 29, SJR 32, SR 11.**

Delivered to the Governor for approval at 9:30 a.m., April 29, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492.**

Delivered to the Governor for approval at 9:30 a.m., April 30, 2003: **SB 130, SB 326, SB 362, SB 406, SB 407, SB 424, SB 473, SB 490.**

Correctly enrolled: **SB 130, SB 326, SB 406, SB 407, SB 424, SB 473, SB 490.**

4/29/2003

Correctly enrolled: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 423, SB 461, SB 484, SB 485, SB 487, SB 493.**

4/30/2003

MESSAGES FROM THE GOVERNOR

April 29, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 112** sponsored by Senator McCarthy, **Senate Bill 414** sponsored by Senator Pease et al., **Senate Bill 442** sponsored by Senator Stonington et al., **Senate Bill 446** sponsored by Senator Barkus et al., **Senate Bill 489** sponsored by Senator Elliott et al., and **Senate Bill 491** sponsored by Senator Stonington on April 29, 2003.

Sincerely,

JUDY MARTZ
Governor

April 30, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

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Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 101** sponsored by Senator Mahlum, **Senate Bill 325** sponsored by Senator McGee, **Senate Bill 408** sponsored by Senator Nelson, and **Senate Bill 429** sponsored by Senator Esp et al. on April 30, 2003.

Sincerely,

JUDY MARTZ
Governor

May 1, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 406** sponsored by Senator McGee, **Senate Bill 424** sponsored by Senator Nelson, and **Senate Bill 473** sponsored by Senator Elliott et al. on May 1, 2003.

Sincerely,

JUDY MARTZ
Governor

REPORTS OF STANDING COMMITTEES

BILL REPORT

Examined by the sponsor and found to be correct: **SB 101, SB 126, SB 130, SB 304, SB 325, SB 326, SB 362, SB 375, SB 406, SB 407, SB 408, SB 424, SB 429, SB 473, SB 490, SB 492, SJR 13, SJR 29, SJR 31, SJR 32, SR 11.**

Signed by the President at 9:00 a.m., April 24, 2003: **SJR 13.**

Signed by the Secretary of the Senate at 10:00 a.m., April 24, 2003: **SJR 13.**

Signed by the Speaker at 10:05 a.m., April 24, 2003: **SJR 13.**

Delivered to the Secretary of State at 9:46 a.m., April 28, 2003: **SJR 13.**

Signed by the President at 5:00 p.m., April 24, 2003: **SJR 31.**

Signed by the Secretary of the Senate at 7:15 p.m., April 24, 2003: **SJR 31.**

Signed by the Speaker at 8:15 a.m., April 25, 2003: **SJR 31.**

Delivered to the Secretary of State at 9:46 a.m., April 28, 2003: **SJR 31.**

Signed by the President at 4:30 p.m., April 26, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492, SJR 29, SJR 32, SR 11.**

Signed by the Secretary of the Senate at 9:30 a.m., April 28, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492, SJR 29, SJR 32, SR 11.**

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Signed by the Speaker at 10:00 a.m., April 28, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492, SJR 29, SJR 32.**

Delivered to the Governor for approval at 9:30 a.m., April 29, 2003: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492.**

Delivered to the Secretary of State at 10:00 a.m., April 29, 2003: **SJR 29, SJR 32, SR 11.**

Signed by the President at 2:00 p.m., April 29, 2003: **SB 407, SB 424.**

Signed by the Secretary of the Senate at 2:30 p.m., April 29, 2003: **SB 407, SB 424.**

Signed by the Speaker at 3:25 p.m., April 29, 2003: **SB 407, SB 424.**

Delivered to the Governor for approval at 9:30 a.m., April 30, 2003: **SB 407, SB 424.**

Signed by the President at 2:30 p.m., April 29, 2003: **SB 326, SB 362.**

Signed by the Secretary of the Senate at 2:45 p.m., April 29, 2003: **SB 326, SB 362.**

Signed by the Speaker at 3:25 p.m., April 29, 2003: **SB 326, SB 362.**

Delivered to the Governor for approval at 9:30 a.m., April 30, 2003: **SB 326, SB 362.**

Signed by the President at 3:00 p.m., April 29, 2003: **SB 130, SB 406, SB 473, SB 490.**

Signed by the Secretary of the Senate at 2:45 p.m., April 29, 2003: **SB 130, SB 406, SB 473, SB 490.**

Signed by the Speaker at 3:25 p.m., April 29, 2003: **SB 130, SB 406, SB 473, SB 490.**

Delivered to the Governor for approval at 9:30 a.m., April 30, 2003: **SB 130, SB 406, SB 473, SB 490.**

Signed by the President at 4:00 p.m., May 1, 2003: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 461, SB 483, SB 484, SB 485, SB 487, SB 493, SJR 17.**

Signed by the Secretary of the Senate at 4:00 p.m., May 1, 2003: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 461, SB 483, SB 484, SB 485, SB 487, SB 493, SJR 17.**

Signed by the Speaker at 8:15 a.m., May 2, 2003: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 461, SB 483, SB 484, SB 485, SB 487, SB 493, SJR 17.**

Delivered to the Governor for approval at 9:15 a.m., May 2, 2003: **SB 47, SB 57, SB 270, SB 271, SB 330, SB 336, SB 347, SB 360, SB 370, SB 381, SB 395, SB 415, SB 461, SB 483, SB 484, SB 485, SB 487, SB 493.**

Delivered to the Secretary of State at 9:00 a.m., May 2, 2003: **SJR 17.**

MESSAGES FROM THE GOVERNOR

May 5, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 126** sponsored by Senator Story, **Senate Bill 270** sponsored by Senator Harrington et al., **Senate Bill 370** sponsored by Senator Gebhardt, **Senate Bill 375** sponsored by Senator Elliott, **Senate Bill 381** sponsored by Senator Keenan, **Senate Bill 484** sponsored by Senator Mangan, and **Senate Bill 490** sponsored by Senator Grimes et al. on May 5, 2003.

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Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE GOVERNOR

May 9, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 47** sponsored by Senator Gebhardt, **Senate Bill 57** sponsored by Senator Keenan, **Senate Bill 130** sponsored by Senator McGee, **Senate Bill 271** sponsored by Senator Stapleton et al., **Senate Bill 304** sponsored by Senator Johnson et al., **Senate Bill 326** sponsored by Senator McGee, and **Senate Bill 330** sponsored by Senator Mangan on May 9, 2003.

Sincerely,

JUDY MARTZ
Governor

May 9, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 336** sponsored by Senator Mahlum et al. and **Senate Bill 360** sponsored by Senator F. Thomas on May 9, 2003.

Sincerely,

JUDY MARTZ
Governor

May 9, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol

SENATE JOURNAL
ADDENDUM
58TH LEGISLATURE

Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 347** sponsored by Senator Keenan, **Senate Bill 395** sponsored by Senator Perry et al., **Senate Bill 415** sponsored by Senator F. Thomas et al., **Senate Bill 461** sponsored by Senator Story et al., **Senate Bill 483** sponsored by Senator Keenan et al., **Senate Bill 485** sponsored by Senator Cobb et al., **Senate Bill 487** sponsored by Senator Pease et al., and **Senate Bill 493** sponsored by Senator Keenan on May 9, 2003.

Sincerely,

JUDY MARTZ
Governor

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-FIRST LEGISLATIVE DAY**

Helena, Montana
January 31, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the twentieth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 292, SB 293, SB 294, SB 295, SB 296, SB 297, SB 298, SB 299, SB 300.**

Correctly engrossed: **SB 28, SB 229, SR 2.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
HB 62, be concurred in. Report adopted.

1/29/2003

BUSINESS AND LABOR (Mahlum, Chairman):
SB 101, introduced bill, be amended as follows:

1/30/2003

1. Title, page 1, line 10.

Following: "ACCOUNT;"

Insert: "REQUIRING THE COMMISSION TO ESTABLISH A SUBCOMMITTEE OF COMMISSION MEMBERS AND MEMBERS OF THE MONTANA HISTORICAL SOCIETY BOARD; REQUIRING A MAJORITY VOTE OF THE SUBCOMMITTEE PRIOR TO SELLING PERSONAL PROPERTY FROM THE BOVEY ASSETS; REQUIRING THAT FUNDS RECEIVED FROM THE SALE OF PERSONAL PROPERTY FROM THE BOVEY ASSETS BE DEPOSITED IN A TRUST FUND; TRANSFERRING TITLE OF THE BOVEY ASSETS TO THE STATE OF MONTANA;"

2. Page 5, line 7.

Following: "~~legislature.~~"

Insert: "It is the intent of the 58th legislature that no general fund money be provided for the operations and maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature."

3. Page 5, line 18.

Following: line 17

Insert: "(7) The commission shall establish a subcommittee composed of an equal number of members of the Montana historical society board of trustees and commission members to review and recommend the sale of personal property from the former Bovey assets acquired by the 55th legislature. A recommendation to sell may be presented to the commission only if the recommendation is supported by a majority of the members of the subcommittee."

Renumber: subsequent subsections

4. Page 5, line 19.

Following: "acquisition"

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Strike: "and"

Insert: "or"

5. Page 5, line 26.

Strike: "and"

Insert: "(g) whether the commission should include any preservation covenants in a proposed sale agreement for real property;

(h) whether the commission should incorporate any design review ordinances established by Virginia City into a proposed sale agreement for real property; and"

Renumber: subsequent subsection

6. Page 5, line 28.

Strike: "The"

Insert: "Except as provided in subsection (11), the"

Strike: "(7)"

Insert: "(8)"

7. Page 6, line 6.

Following: "commission."

Insert: "Funds from the sale of personal property from the Bovey assets must be placed in a trust fund, and interest from the trust fund must be used to manage and protect the remaining personal property."

8. Page 6, line 9.

Strike: "and"

Insert: "or"

9. Page 6, line 26.

Following: line 25

Insert: "NEW SECTION. **Section 4. Transfer of title.** Title to the real and personal property acquired by the 55th legislature and commonly referred to as the "Bovey assets" is transferred from the Montana historical society to the state of Montana."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 230, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

1/30/2003

SB 89, do pass. Report adopted.

SB 197, do pass. Report adopted.

SB 211, do pass. Report adopted.

SB 222, introduced bill, be amended as follows:

1. Title, line 11.

Following: "ELECTIONS"

Insert: "IF APPROVED BY RESIDENT ELECTORS"

2. Page 2, line 16.

Following: "15;"

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Insert: "or"

3. Page 2, line 17 through line 19.

Strike: "or" on line 17 through "district;" on line 19

4. Page 3, line 6 through line 8.

Strike: "or" on line 6 through "municipality" on line 8

5. Page 3, line 9.

Strike: ", as provided in subsection (3)(b),"

Insert: "that is situated within the boundaries of the municipality in which the individual proposes to vote"

6. Page 3, line 10.

Following: "13-1-111(1)(c)"

Insert: "and may vote in elections subsequent to the creation of a municipality"

Following: "if"

Insert: ": (a)"

7. Page 3, line 12.

Following: "administrator"

Insert: "; and (b) a petition signed by at least 100 resident electors of the municipality is:

(i) filed with the governing body of the municipality not less than 30 days or more than 180 days before a regular, primary, or general election; and

(ii) approved by a majority of resident electors voting in the election"

8. Page 3, line 16.

Following: "greater."

Insert: "The term does not mean a timeshare owner as defined in 37-53-102."

And, as amended, do pass. Report adopted.

HB 132, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

SELECT COMMITTEE ON REDISTRICTING AND APPORTIONMENT(Barkus, Chair)

1/31/2003

HB 309, be concurred in. Report adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Nays: Cobb, Cocchiarella, Cooney, Cromley, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Absent or not voting: None.

Total 0

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Excused: Ellingson.
Total 1

SB 215 - Senator Toole rose on a point of parliamentary inquiry concerning the Adverse Committee Report on **SB 215** on the nineteenth legislative day.

Majority Leader Thomas stated if the committee report is adopted, the bill will go to second reading. If the committee report is denied, the bill stays in the committee as if it never left.

MOTIONS

SB 215 - Senator Johnson moved to adopt the Adverse Committee Report on **SB 215** on January 29, 2003. Motion **failed** as follows:

Yeas: Curtiss, Johnson, Taylor.
Total 3

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 215 will remain in the Energy and Telecommunications Committee.

MESSAGES FROM THE OTHER HOUSE

Senate joint resolution concurred in and returned to the Senate: 1/30/2003

SJR 1, introduced by F. Thomas

House bills passed and transmitted to the Senate for concurrence: 1/30/2003

HB 134, introduced by Weiss
HB 197, introduced by Becker
HB 233, introduced by Waitschies
HB 234, introduced by Cohenour
HB 285, introduced by R. Brown
HB 312, introduced by Lindeen

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FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 301, introduced by Toole, referred to Taxation.
SB 302, introduced by McCarthy, Lewis, Grimes, Laslovich, referred to Taxation.
SB 303, introduced by Glaser, referred to Education and Cultural Resources.
SB 304, introduced by Johnson, Bohlinger, referred to Business and Labor.
SB 305, introduced by Stonington, referred to Finance and Claims.
SB 306, introduced by D. Ryan, referred to Business and Labor.
SB 307, introduced by D. Ryan, referred to Education and Cultural Resources.
SB 308, introduced by Taylor, referred to Energy and Telecommunications.
SB 309, introduced by Bohlinger, referred to Taxation.
SB 310, introduced by Glaser, referred to Education and Cultural Resources.
SB 311, introduced by Wheat, referred to Judiciary.

The following House bills were introduced, read first time, and referred to committees:

HB 134, introduced by Weiss (by request of the Department of Corrections), referred to Judiciary.
HB 156, introduced by Matthews, referred to Judiciary.
HB 197, introduced by Becker (by request of the Department of Justice), referred to Judiciary.
HB 217, introduced by Brueggeman (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
HB 233, introduced by Waitschies, referred to Natural Resources.
HB 234, introduced by Cohenour, referred to Judiciary.
HB 238, introduced by Andersen, referred to Local Government.
HB 248, introduced by Balyeat, Anderson, Bales, Barkus, P. Clark, Curtiss, Forrester, Fuchs, Golie, Jent, Laible, Lange, Laslovich, Lawson, Maedje, Mahlum, McGee, Mood, Pattison, Perry, Peterson, Shea, Sinrud, Sprague, Story, Tropila, Wagman, Younkin, referred to Fish and Game.
HB 261, introduced by Haines, referred to Finance and Claims.
HB 285, introduced by R. Brown, Gallik, Laszloffy, McGee, McKenney, Mood, F. Thomas, Wanzenried, referred to Education and Cultural Resources.
HB 312, introduced by Lindeen, referred to Business and Labor.
HB 315, introduced by Lawson, referred to Business and Labor.
HB 323, introduced by Jent, referred to Business and Labor.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Cromley in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 188 - Senator Thomas moved **HB 188** be moved to the top of the second reading board. Motion carried.

HB 188 - Senator DePratu moved **HB 188** be concurred in. Motion carried as follows:

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Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Bales, Curtiss, Elliott, McGee, Tester.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 216 - Senator Cocchiarella moved **SB 216** do pass. Motion carried unanimously.

SB 1, requiring 2/3 of entire Legislature - Senator McCarthy moved **SB 1** do pass. Motion received the following vote:

Yeas: Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Glaser, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Story, Tash, Tester, Toole, Tropila, Zook, Mr. President.

Total 34

Nays: Anderson, Butcher, Cooney, Elliott, Gebhardt, Grimes, Johnson, Laible, McGee, O'Neil, Sprague, Stapleton, Stonington, Taylor, Thomas, Wheat.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 79 - Senator Sprague moved **SB 79**, second reading copy, be amended as follows :

1. Title, page 1, line 6.

Following: "EACH"

Insert: "AND PROVIDING THAT LEGISLATION MAY NOT BE CARRIED FORWARD FROM ONE SESSION TO ANOTHER"

2. Page 1, line 12.

Following: "session."

Insert: "Legislation may not be carried forward from one session to another."

3. Page 1, line 19.

Following: "days"

Insert: "and prohibiting legislation from being carried forward from one session to another"

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4. Page 1, line 20.

Following: "days"

Insert: "and prohibiting legislation from being carried forward from one session to another"

Amendment **adopted** unanimously.

SB 79, requiring 2/3 of entire Legislature - Senator Sprague moved **SB 79**, as amended, do pass. Motion received the following vote:

Yeas: Anderson, Bales, Barkus, Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 43

Nays: Black, Butcher, Cobb, Elliott, Stapleton, Taylor, Tester.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Cromley moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 243 - Senator Wheat moved **SB 243** be taken from third reading this legislative day and rereferred to the committee on Finance and Claims. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 16 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 49

Nays: Tropila.

Total 1

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 95 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Bales, Curtiss, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 142 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Nelson, Tester.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 145 passed as follows:

Yeas: Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 41

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Nays: Anderson, Bales, Butcher, Cromley, Curtiss, Grimes, McGee, O'Neil, Story.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 173 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 257 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 9:00 a.m., Saturday, February 1, 2003. Motion carried.

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TWENTY-FIRST LEGISLATIVE DAY - JANUARY 31, 2003

Senate adjourned at 3:00 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-SECOND LEGISLATIVE DAY**

Helena, Montana
February 1, 2003

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Pease, excused. Quorum present.

The presiding officer has authenticated the daily journal for the twenty-first legislative day.

REPORTS OF STANDING COMMITTEES

BILLS REPORT

Correctly printed: **SB 301, SB 302, SB 303, SB 304, SB 305, SB 306, SB 307, SB 308, SB 309, SB 310, SB 311.**

Correctly engrossed: **SB 102, SB 222.**

Correctly enrolled: **SJR 1.**

Examined by the sponsor and found to be correct: **SJR 1.**

Signed by the President at 11:30 a.m., February 1, 2003: **SJR 1.**

Signed by the Speaker at 12 noon, February 1, 2003: **SJR 1.**

Signed by the Secretary of the Senate at 12:10 p.m., February 1, 2003: **SJR 1.**

Delivered to the Secretary of State at 12:15 p.m., February 1, 2003: **SJR 1.**

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

1/31/2003

HB 67, be amended as follows:

1. Title, line 13.

Strike: "ON CERTAIN HIGHWAYS"

2. Page 6, line 18.

Strike: "WITHIN" through "TOWN"

And, as amended, be concurred in. Report adopted.

HB 68, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

1/31/2003

SB 25, introduced bill, be amended as follows:

1. Title, line 5.

Following: "WITH"

Strike: "A"

Insert: "CERTAIN"

2. Title, line 6.

Strike: "DISORDER"

Insert: "DISORDERS"

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3. Title, line 7 through line 9.

Following: "FACILITY;" on line 7

Strike: remainder of line 7 through "ILLNESS;" on line 9

Following: "41-5-1504"

Insert: ", 41-5-1512,"

4. Page 1, line 16 through line 17.

Following: "from a" on line 16

Strike: remainder of line 16 through "53-21-126(1)" on line 17

Insert: "disorder in thought or mood so substantial that it impairs judgment, behavior, perceptions of reality, and the ability to cope with the ordinary demands of life, including but not limited to major depression, schizophrenia, or bipolar disorder,

5. Page 1, line 20.

Following: "from a"

Strike: "mental disorder, as defined in 53-21-102"

Insert: "disorder in thought or mood so substantial that it impairs judgment, behavior, perceptions of reality, and the ability to cope with the ordinary demands of life"

6. Page 1, line 21.

Following: "schizophrenia,"

Insert: "or"

Following: "bipolar"

Strike: ", or borderline personality"

Following: "disorder,"

Strike: "and who meets the criteria in 53-21-126(1)"

7. Page 1, line 22.

Following: "facility"

Insert: "unless the court finds that the youth poses a significant danger to the community"

8. Page 1, line 27.

Following: line 26

Insert: "(3) A youth who, after placement in or sentencing to a state youth correctional facility, develops a disorder in thought or mood so substantial that it impairs judgment, behavior, perceptions of reality, and the ability to cope with the ordinary demands of life, including but not limited to major depression, schizophrenia, or bipolar disorder, must be moved to a more appropriate placement in response to the youth's mental health needs."

9. Page 1, line 28.

Insert: "**Section 2.** Section 41-5-1512, MCA, is amended to read:

"41-5-1512. Disposition of youth in need of intervention or youth who violate consent adjustments. (1)

If a youth is found to be a youth in need of intervention or to have violated a consent adjustment, the youth court may enter its judgment making one or more of the following dispositions:

(a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under this subsection.

(b) place the youth in a residence that ensures that the youth is accountable, that provides for rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider placement recommendations from the youth placement committee.

(c) commit the youth to the department in jurisdictions that do not participate in the juvenile delinquency intervention program or to the youth court in jurisdictions that participate in the juvenile delinquency intervention

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program for the purposes of funding a private, out-of-home, residential placement subject to the conditions in 41-5-1522. In an order committing a youth to the department or to the youth court, the court shall determine whether continuation in the youth's own home would be contrary to the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth's home.

(d) order restitution for damages that result from the offense for which the youth is disposed by the youth or by the person that contributed to the delinquency of the youth;

(e) require the performance of community service;

(f) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth to receive counseling services;

(g) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or the persons having legal custody of the youth;

(h) require the parents, guardians, or other persons having legal custody of the youth to furnish services the court may designate;

(i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and the community;

(j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based upon the testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering from a ~~mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1)~~ disorder in thought or mood so substantial that it impairs judgment, behavior, perceptions of reality, and the ability to cope with the ordinary demands of life, including but not limited to major depression, schizophrenia, or bipolar disorder;

(k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

(l) order confiscation of the youth's driver's license, if the youth has one, by the probation officer for a specified period of time, not to exceed 90 days. The probation officer shall notify the department of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving record. The probation officer shall notify the department of justice when the confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The probation officer may, in the probation officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth, nor may it be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

(m) order the youth to pay a contribution covering all or a part of the costs for the adjudication, disposition, attorney fees for the costs of prosecuting or defending the youth, costs of detention, supervision, care, custody, and treatment of the youth, including the costs of counseling;

(n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;

(o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or facility with the following conditions:

(i) The court may not order placement for evaluation at a youth correctional facility of a youth who has committed an offense that would not be a criminal offense if committed by an adult or a youth who has violated a consent adjustment.

(ii) The placement for evaluation must be on a space-available basis at the county's expense, which is not reimbursable under part 19 of this chapter.

(iii) The court may require the youth's parents or guardians to pay a contribution covering all or a part of the costs of the evaluation if the court determines after an examination of financial ability that the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the financial responsibility of the judicial district of the court that ordered the evaluation.

(p) order placement of a youth in a youth assessment center for up to 10 days;

(q) order the youth to participate in mediation that is appropriate for the offense committed.

(2) The court may not order a local government entity to pay for care, treatment, intervention, or placement.

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A court may order a local government entity to pay for evaluation and in-state transportation of a youth.

(3) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the account established for that district under 41-5-130 without approval from the cost containment review panel.""

Renumber: subsequent sections

10. Page 2, line 6.

Following: "schizophrenia."

Insert: "or"

Following: "bipolar"

Strike: ", or borderline personality"

And, as amended, do pass. Report adopted.

SB 226, introduced bill, be amended as follows:

1. Title, line 4.

Following: ""AN ACT"

Strike: "PROTECTING LANDLORDS AND TENANTS FROM"

Insert: "PROVIDING THAT"

2. Title, line 5 through line 6.

Following: "ACTIVITY" on line 5

Strike: remainder of line 5 through "GANGS" on line 6

Insert: "CONSTITUTES NONCOMPLIANCE WITH A TENANT'S DUTY TO MAINTAIN A DWELLING UNIT AND A LANDLORD'S DUTY TO MAINTAIN PREMISES; REVISING THE TIME PERIOD FOR NOTIFICATION OF INTENDED TERMINATION BASED ON THE NONCOMPLIANCE; REVISING HEARING TIME REQUIREMENTS FOR REPOSSESSION ACTIONS BASED ON THE NONCOMPLIANCE"

3. Title, line 7.

Following: "SECTIONS"

Insert: "70-24-303, 70-24-321,"

Following: "70-24-422"

Insert: ", "

4. Page 1, line 11.

Following: line 10

Insert: "**Section 1.** Section 70-24-303, MCA, is amended to read:

"70-24-303. Landlord to maintain premises -- agreement that tenant perform duties -- limitation of landlord's liability for failure of smoke detector. (1) A landlord ~~shall~~:

(a) shall comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

(b) may not knowingly allow any tenant or other person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured, including but not limited to:

(i) criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110;

(ii) operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(iii) gang-related activities, as prohibited by Title 45, chapter 8, part 4;

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~~(b)~~(c) shall make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

~~(c)~~(d) shall keep all common areas of the premises in a clean and safe condition;

~~(d)~~(e) shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;

~~(e)~~(f) shall, unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

~~(f)~~(g) shall supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant; and

~~(g)~~(h) shall install, in accordance with rules adopted by the department of justice, an approved smoke detector in each dwelling unit under the landlord's control. Upon commencement of a rental agreement, the landlord shall verify that the smoke detector in the dwelling unit is in good working order. The tenant shall maintain the smoke detector in good working order during the tenant's rental period. For purposes of this subsection, an approved smoke detector is a device that is capable of detecting visible or invisible particles of combustion and that bears a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly.

(2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through ~~(1)(g)~~ (1)(h), a landlord's duty must be determined by reference to subsection (1)(a).

(3) A landlord and tenant of a one-, two-, or three-family residence may agree in writing that the tenant perform the landlord's duties specified in subsections ~~(1)(c)~~ (1)(f) and ~~(1)(f)~~ (1)(g) ~~of this section~~ and specified repairs, maintenance tasks, alteration, and remodeling but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) the work is not necessary to cure noncompliance with subsection (1)(a); and

(c) the agreement does not diminish the obligation of the landlord to other tenants in the premises.

(5) The landlord is not liable for damages caused as a result of the failure of the smoke detector required under subsection ~~(1)(g)~~ (1)(h). ""

Insert: "Section 2. Section 70-24-321, MCA, is amended to read:

"70-24-321. Tenant to maintain dwelling unit. (1) A tenant shall:

(a) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(b) keep that part of the premises that the tenant occupies and uses as reasonably clean and safe as the condition of the premises permits;

(c) dispose from the dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;

(d) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(e) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, in the premises;

(f) conduct oneself and require other persons on the premises with the tenant's consent to conduct themselves in a manner, that will not disturb the tenant's neighbors' peaceful enjoyment of the premises; and

(g) use the parts of the premises, including the living room, bedroom, kitchen, bathroom, and dining room, in a reasonable manner, considering the purposes for which they were designed and intended. This section does not preclude

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the right of the tenant to operate a limited business or cottage industry on the premises, subject to state and local laws, ~~provided if~~ the landlord has consented in writing. The landlord may not unreasonably withhold consent, ~~provided that if~~ the limited business or cottage industry is operated within reasonable rules of the landlord.

(2) A tenant may not destroy, deface, damage, impair, or remove any part of the premises or permit any person to do so.

(3) A tenant may not engage or knowingly allow any person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured, including but not limited to:

(a) criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110;

(b) operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(c) gang-related activities, as prohibited by Title 45, chapter 8, part 4."

Renumber: subsequent sections

5. Page 1, line 12.

Following: "right"

Strike: "or duty"

6. Page 1, line 13.

Strike: "(a)"

7. Page 1, line 19.

Strike: "(i)"

Insert: "(a)"

8. Page 1, line 22.

Strike: "(ii)"

Insert: "(b)"

9. Page 1, line 23.

Strike: "(iii)"

Insert: "(c)"

10. Page 1, line 25 through line 26.

Strike: subsection (iv) in its entirety

11. Page 1, line 27 through line 28.

Strike: "(v)"

Insert: "(d)"

Strike: "subsections (1)(a)(i) through (1)(a)(iv)"

Insert: "subsection (1)(b) or (1)(c)"

12. Page 1, line 29.

Strike: "(vi)"

Insert: "(e)"

13. Page 2, line 2 through line 4.

Strike: subsection (b) in its entirety

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14. Page 2, line 5.

Strike: "(c)"

Insert: "(f)"

15. Page 2, line 14.

Following: line 13

Insert: "(4) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured, the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the violation and noncompliance under the provisions of 70-24-321(3)."

Renumber: subsequent subsections

16. Page 2, line 16 (new amendment per clerical dated 2/1/03)

Strike: "(5)"

Insert: "(6)"

17. Page 2, line 18.

Strike: "(5)"

Insert: "(6)"

18. Page 3, line 1.

Following: "because of"

Strike: "a violation of Title 45, chapter 8, part 4, or Title 45, chapter 9"

Insert: "noncompliance under 70-24-321(3)"

19. Page 3, line 4 through line 5.

Following: "because of" on line 4

Strike: remainder of line 4 through "chapter 9" on line 5

Insert: "noncompliance under 70-24-321(3)"

And, as amended, do pass. Report adopted.

SB 238, introduced bill, be amended as follows:

1. Page 5, line 26.

Following: "and who"

Insert: ":

(a)"

2. Page 5, line 29.

Strike: "(a)"

Insert: "(i)"

Following: ";

Insert: "or"

3. Page 5, line 30.

Strike: "(b)"

Insert: "(ii)"

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4. Page 6, line 4.

Strike: "(c)"

Insert: "(b)"

And, as amended, do pass. Report adopted.

HB 29, be amended as follows:

1. Page 2, line 8.

Following: "THE"

Insert: "written"

And, as amended, be concurred in. Report adopted.

HB 48, be concurred in. Report adopted.

HB 84, be concurred in. Report adopted.

HB 149, be amended as follows:

1. Title, line 5 through line 6.

Following: "IN" on line 5

Strike: remainder of line 5 through "OTHER" on line 6

Insert: "VARIOUS"

2. Page 1, line 22.

Following: "year"

Strike: "or more"

3. Page 1, line 23 through line 24.

Following: "at" on line 23

Strike: remainder of line 23 through "other" on line 24

And, as amended, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

1/31/2003

SB 65, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "WAIVER"

Insert: "EXEMPTION"

2. Title, page 1, line 7.

Strike: "ELIMINATING"

Insert: "REVISING"

3. Title, page 1, line 8.

Strike: "WAIVER"

Insert: "EXEMPTION"

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4. Page 3, line 11 through line 12.

Strike: "eligible" on line 11 through "disability" on line 12

Insert: "currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability "

5. Page 4, line 20 through line 21.

Strike: "entitled" on line 20 through "disability" on line 21

Insert: "who is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability"

6. Page 4, line 22 through line 23.

Strike: ", even" on line 22 through "affairs" on line 23

7. Page 13, line 2.

Strike: "fees collected pursuant to"

Insert: "\$10 for each veteran's license plate subject to the fee in"

8. Page 13, line 28 through line 30.

Strike: "entitled" on line 28 through "disability" on line 30

Insert: "currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability"

9. Page 14, line 1 through line 2.

Strike: ", even" on line 1 through "affairs" on line 2

10. Page 14.

Following: line 4

Insert: "(2) Property qualifying under subsection (1) is taxed at the rate provided in 15-6-134(2)(a) multiplied by a percentage figure based on income and determined from the following table:

Income <u>Single Person</u>	Income <u>Married Couple</u>	Percentage <u>Multiplier</u>
0 - 30,000	0 - 36,000	0%
30,001 - 33,000	36,001 - 39,000	20%
33,001 - 36,000	39,001 - 42,000	30%
36,001 - 39,000	42,001 - 45,000	50%

Renumber: subsequent subsection

11. Page 14, line 13 through line 15.

Strike: "entitled" on line 13 through "affairs," on line 15

Insert: "rated 100% disabled or was paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability at the time of death"

12. Page 14, line 17.

Following: line 16

Insert: "(4) Property qualifying under subsection (3) is taxed at the rate provided in 15-6-134(2)(a) multiplied by a percentage figure based on income and determined from the following table:

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<u>Income</u> <u>Surviving Spouse</u>	<u>Percentage</u> <u>Multiplier</u>
0 - 25,000	0%
25,001 - 28,000	20%
28,001 - 31,000	30%
31,001 - 34,000	50%

(5) (a) The income levels contained in the tables in subsections (2) and (4) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount from the table by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 2002; and

(ii) rounding the product obtained in subsection (5)(a)(i) to the nearest dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

And, as amended, do pass. Report adopted.

SB 121, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "TO"

Insert: "FOREIGN"

Following: the second "AND"

Insert: "TO"

2. Title, page 1, line 11.

Following: "COMPACT;"

Insert: "PROVIDING A DEFINITION OF "FOREIGN C. CORPORATION";"

3. Title, page 1, line 12.

Following: "SECTIONS"

Insert: "15-30-101,"

4. Page 1.

Following: line 15

Insert: "**Section 1.** Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by 15-30-103(2), in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by 15-30-122(2), in effect on June 30 of the taxable year.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

(3) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

(a) that is treated as an association for federal income tax purposes;

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(b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not in effect; and

(c) that is not a disregarded entity.

(4) "Department" means the department of revenue.

(5) "Disregarded entity" means a business entity:

(a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as those regulations may be labeled or amended; or

(b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).

(6) "Dividend" means:

(a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

(b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

(7) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(8) "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana, as provided in 15-31-101.

~~(8)(9)~~ "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its possessions.

~~(9)(10)~~ "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code (26 U.S.C. 85) as amended.

~~(10)(11)~~ "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the tax year by the consumer price index for June 1980.

~~(11)(12)~~ "Information agents" includes all individuals and entities acting in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

~~(12)(13)~~ "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.

~~(13)(14)~~ "Knowingly" is as defined in 45-2-101.

~~(14)(15)~~ "Limited liability company" means a limited liability company, domestic limited liability company, or a foreign limited liability company as defined in 35-8-102.

~~(15)(16)~~ "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

~~(16)(17)~~ "Lottery winnings" means income paid either in lump sum or in periodic payments to:

(a) a resident taxpayer on a lottery ticket; or

(b) a nonresident taxpayer on a lottery ticket purchased in Montana.

~~(17)(18)~~ (a) "Montana source income" means:

(i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;

(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;

(iii) gain attributable to the sale or other transfer of intangible property received or accrued while a resident of the state;

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(iv) interest received or accrued while a resident of the state or from an installment sale of real property or tangible commercial or business personal property located in the state;

(v) dividends received or accrued while a resident of the state;

(vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

(vii) net income or loss derived from farming activities carried on in the state or while a resident of the state;

(viii) net rents from real property and tangible personal property located in the state or received or accrued while a resident of the state;

(ix) net royalties from real property and from tangible real property to the extent the property is used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all royalty periods in the tax year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time the person paying the royalty obtained possession.

(x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;

(xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;

(xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiv) social security benefits received or accrued while a resident of the state;

(xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state; and

(xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks.

(b) The term does not include:

(i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or

(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

~~(18)~~(19) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(19)~~(20) "Nonresident" means a natural person who is not a resident.

~~(20)~~(21) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid

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or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(21)~~(22) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

~~(22)~~(23) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

~~(23)~~(24) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

~~(24)~~(25) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

~~(25)~~(26) "Purposely" is as defined in 45-2-101.

~~(26)~~(27) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued, and the term "received or accrued" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(27)~~(28) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

~~(28)~~(29) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in effect.

~~(29)~~(30) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

~~(30)~~(31) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(31)~~(32) "Taxable year" or "tax year" means the taxpayer's taxable year for federal income tax purposes.

~~(32)~~(33) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation.""

Renumber: subsequent sections

5. Page 1, line 24.

Following: "(1)(c)"

Insert: ", the first-tier pass-through entity,"

6. Page 1, line 26.

Following: "is"

Insert: "itself"

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7. Page 1, line 27.

Following: "which"

Insert: "the first-tier pass-through entity's"

8. Page 1, line 28.

Following: "which"

Insert: "the first-tier pass-through entity's"

9. Page 3, line 19.

Following: "a"

Insert: "foreign"

10. Page 4, line 16.

Following: "15-30-144"

Insert: ", a corporation license tax return required under 15-31-111, and a corporation income tax return required under 15-31-403"

11. Page 4, line 26.

Following: the first "a"

Insert: "foreign"

Following: "that"

Insert: "itself"

12. Page 4, line 27.

Following: "individual,"

Insert: "foreign"

13. Page 5, line 9.

Following: "a"

Insert: "foreign"

14. Page 5, line 11.

Following: "the"

Insert: "foreign"

15. Page 5, line 17.

Following: the second "the"

Insert: "foreign"

16. Page 5, line 24.

Strike: "is"

Insert: "will be"

17. Page 6, line 4.

Following: the second "a"

Insert: "foreign"

18. Page 6, line 5.

Following: the second "the"

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Insert: "foreign"

19. Page 6, line 6.

Following: the first "the"

Insert: "foreign"

20. Page 6, line 7.

Following: the first "the"

Insert: "foreign"

21. Page 6, line 9.

Following: line 8

Insert: "foreign"

22. Page 6, line 20.

Following: "or"

Insert: "foreign"

23. Page 6, line 22.

Following: "or"

Insert: "foreign"

24. Page 6, line 24.

Following: the second "the"

Insert: "foreign"

And, as amended, do pass. Report adopted.

HB 59, be amended as follows:

1. Title, page 1, line 8.

Strike: "AND"

2. Title, page 1, line 9.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1.

Following: line 23

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

HB 106, be amended as follows:

1. Page 1, line 29.

Strike: "shall"

Insert: "may"

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And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/31/2003

HB 18, introduced by Shockley
HB 40, introduced by Newman
HB 47, introduced by P. Clark
HB 66, introduced by Harris
HB 130, introduced by Lewis
HB 166, introduced by Wanzenried
HB 199, introduced by Harris
HB 215, introduced by Brueggeman
HB 224, introduced by Shockley
HB 256, introduced by Shockley

MOTIONS

SB 89 - Senator Tash moved **SB 89** be taken from second reading and rereferred to the committee on Finance and Claims. Motion carried.

SB 255 - Senator DePratu moved that Senators Black, Curtiss, McGee and Perry and Representative Brueggeman be added as sponsors to **SB 255**. Motion carried.

SB 260 - Senator DePratu moved that Senators Black, Curtiss, McGee and Perry and Representatives Dowell, Jackson, Lawson and Olson be added as sponsors to **SB 260**. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 312, introduced by Story, referred to Highways and Transportation.
SB 313, introduced by Kitzenberg, referred to Education and Cultural Resources.
SB 314, introduced by McCarthy, Bohlinger, Cooney, Harrington, Johnson, Lindeen, Tester, Wanzenried, referred to Finance and Claims.
SB 315, introduced by Schmidt, Black, Callahan, Dickenson, Franklin, Galvin-Halcro, Golie, Hansen, Harrington, Hedges, Laslovich, McKenney, Nelson, Parker, Roush, D. Ryan, Tash, Tester, Tropila, Witt, referred to Highways and Transportation.
SB 316, introduced by Grimes, referred to Energy and Telecommunications.
SB 317, introduced by Wheat, referred to Judiciary.
SB 318, introduced by Wheat, referred to Judiciary.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 1, requiring 2/3 of entire Legislature received the following vote:

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Yeas: Bales, Black, Bohlinger, Cobb, Cocchiarella, Cromley, DePratu, Ellingson, Esp, Glaser, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Roush, Ryan, Shea, Squires, Story, Tash, Toole, Tropila, Zook.

Total 27

Nays: Anderson, Barkus, Butcher, Cooney, Curtiss, Elliott, Gebhardt, Grimes, Johnson, Laible, McGee, O'Neil, Perry, Schmidt, Sprague, Stapleton, Stonington, Taylor, Tester, Thomas, Wheat, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 216 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

HB 188 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

Nays: Bales, Curtiss, Elliott, McGee, O'Neil.

Total 5

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

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Senator Ryan excused at this time.

SPECIAL ORDERS OF THE DAY

Senator Tropila introduced the Trinitas Chapel Choir from the University of Great Falls, which included former Senator Chris Christiaens, who performed musical selections for the Senate.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Esp in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 151 - Senator Mahlum moved **SB 151** do pass. Motion carried unanimously.

HB 31 - Senator Bales moved **HB 31** be concurred in. Motion carried unanimously.

HB 58 - Senator Harrington moved **HB 58** be concurred in. Motion carried unanimously.

HB 70 - Senator Mangan moved **HB 70** be concurred in. Motion carried unanimously.

HB 83 - Senator McGee moved **HB 83** be concurred in. Motion carried unanimously.

SB 28 - Senator Mangan moved **SB 28** do pass. Motion carried unanimously.

SR 2 - Senator Barkus moved **SR 2** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Roush, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 19

Absent or not voting: None.

Total 0

Excused: Pease, Ryan.

Total 2

HB 309 - Senator F. Thomas moved **HB 309** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson,

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Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Roush, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 21

Absent or not voting: None.
Total 0

Excused: Pease, Ryan.
Total 2

Senator Cobb excused at this time.

SB 197 - Senator Perry moved **SB 197** do pass. Motion carried with Senators Bohlinger and Johnson voting nay.

SB 211 - Senator Hansen moved **SB 211** do pass. Motion carried unanimously.

SB 229 - Senator F. Thomas moved **SB 229** do pass. Motion carried unanimously.

Senators Butcher and Sprague excused at this time.

SB 230 - Senator Cromley moved **SB 230** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Perry, Roush, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: McGee, Tash.
Total 2

Absent or not voting: None.
Total 0

Excused: Butcher, Cobb, Pease, Ryan, Sprague.
Total 5

Senator Sprague present at this time.

HB 62 - Senator Nelson moved **HB 62** be concurred in. Motion carried unanimously.

Senator Shea excused at this time.

HB 153 - Senator Black moved **HB 153** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President

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Keenan in the chair. Chairman Esp moved the Committee of the Whole report be adopted. Report adopted.

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans and thanked them for their work through the week.

Majority Leader Thomas thanked the Senators for their contributions to the Senator Dale Berry Memorial, which will be a mural at the Hamilton High School gymnasium.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, February 3, 2003. Motion carried.

Senate adjourned at 12:00 noon.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-THIRD LEGISLATIVE DAY**

Helena, Montana
February 3, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Bales and Stapleton, excused. Quorum present.

The presiding officer has authenticated the daily journal for the twenty-second legislative day.

Senators Bales and Stapleton present at this time.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 312, SB 313, SB 314, SB 315, SB 316, SB 317, SB 318.**

Correctly engrossed: **SB 25, SB 65, SB 79, SB 121, SB 226, SB 238, HB 29, HB 59, HB 67, HB 106, HB 149.**

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

2/3/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 12:00 noon ,Saturday, February 1, 2003:

TITLE

NAME

Pages:

Emily Munn, Helena, MT
Christopher Anderson, Deer Lodge, MT
Kandice Parks, Anaconda, MT
Addy Lord, Helena, MT
Ashley Wimmer-Barsness, Malta, MT
Ben Hoffmann, Helena, MT
Kadie Golberg, White Sulphur, MT
Marcus Meyer, Helena, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 3, 2003:

TITLE

NAME

SPONSOR

Pages:

Derek Duncan, Deer Lodge, MT	Senator Anderson
Kyle Grimes, Clancy, MT	Senator Grimes
Jane Purdy, Missoula, MT	Senator Cocchiarella
Tyson Lies, Great Falls, MT	Senator Schmidt
Holly Husted, Jackson, MT	Senator Tash
David Payne, Lewistown, MT	Senator Butcher
Peter Green, Bozeman, MT	Senator Perry

Report Adopted.

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MESSAGES FROM THE GOVERNOR

January 31, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Attached is our first list of board appointments not yet confirmed by the Montana Legislature. We have supplied the following information for each member:

Board Name
Member Name
Member Address and Phone Numbers
Brief Member Biography
Position Requirement

If I or my staff can be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

JUDY MARTZ
Governor
Attachment

**SENATE CONFIRMATION REPORT – ONE
2003**

Board of Aeronautics

MCA 2-15-2506

Charles Manning
1145 1st Ave. East
Kalispell, MT 59901
HPH: 257-6262
BPH: 844-3369

Appt: 01/01/03
Term: 01/01/07
Qual: Aviation Educator

Charles currently teaches aviation as an independent study course at Flathead High School. He is also involved in aviation education with the Montana Pilots' Association and the Experimental Aircraft Association.

Lonnie Leslie
2121 Wilson St.
Miles City, MT 59301
HPH: 232-3450
BPH: 232-1354

Appt: 01/01/03
Term: 01/01/07
Qual: Fixed Base Operator

Lonnie owns and operates an aircraft charter service that is expanding into fuel sales. He has been flying for nearly

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thirty years and operating the charter service for the past five years. Lonnie is a member of Montana Aeronautics and is currently acting as their Search and Rescue coordinator for District Nine.

Craig Denney	Appt: 01/01/03
1601 Aviation Place	Term: 01/01/07
Billings, MT 59105	Qual: Commercial Airlines Representative
HPH: 247-3910	
BPH: 247-3910	

Craig received his A.A. degree in Aviation from Anoka, MN. in 1974. He began his career with Northwest Airlines as a ticket agent and became the Big Sky Airlines office manager in Butte in 1978. Craig has been the Vice President of Big Sky Airlines since 1980.

John Rabenberg	Appt: 01/01/03
South Route	Term: 01/01/07
Fort Peck, MT 59105	Qual: Public Member
HPH: 525-3318	
BPH: 525-3318	

John has been actively involved in aviation in the state of Montana for close to forty years and has been reappointed as Chairman of the board. He is a past member of the National Transportation Research Board, Aviation Committee. He has served on the Essential Air Service Task Force and has extensive experience and expertise in aviation issues.

Air Pollution Control Advisory Council MCA 2-15-2106

Chris Kolstad	Appt: 11/15/01
HC 74, Box 49	Term: Pleasure of the Governor
Ledger, MT 59456	Qual: Agriculture Rep.
HPH: 759-5686	
BPH: 627-2223	

Chris holds a degree in Agricultural Business from Montana State University. He has been involved in the family farm and ranch business since 1977. In 1987 he was selected as Montana's Outstanding Young Farmer and was also a Young Farmer award winner for the Montana Grain Growers and the Montana Pork Producers.

Richard Southwick	Appt: 12/18/02
173 Cottonwood Rd.	Term: Pleasure of the Governor
Townsend, MT 59644	Qual: Conservationist
HPH: 266-5096	
BPH: 442-5768	

Richard has over 20 years experience in the environmental field with specific emphasis on air pollution control and related statutory and regulatory issues during the past 15 years. For over five years he served as senior corporate resource advisor on environmental matters for TXI, a Fortune 500 cement, steel, and concrete products manufacturer.

Alternative Health Care Board MCA 2-15-1840

Dolly Browder	Appt: 10/01/01
200 Woodworth Ave.	Term: 09/01/05
Missoula, MT 59801	Qual: Direct Midwife

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HPH: 543-6826
BPH: 543-6826

Dolly has been a midwife in the Missoula area since 1977. She is a member of the Montana Midwifery Assn. and Midwives Alliance of North America. She has attended over 600 births and has also taught childbirth preparation classes since 1978. She is CPR certified in adult and neonatal resuscitation.

Kathee Dunham	Appt: 10/03/02
1115 Martz Road	Term: 09/01/06
Arlee, MT 59821	Qual: Direct Midwife
HPH: 726-3740	
BPH: 726-3740	

Kathee has been a licensed midwife since 1993. She apprenticed with a midwife for four years prior to receiving her license. She attended midwifery school at Maternidad LaLuz Birth Center, a licensed school in El Paso, Texas from 1988 - 1989. She is a certified professional midwife and a member of Midwife Alliance of North America.

Eloise Hargrove	Appt: 10/03/02
P.O. Box 1	Term: 09/01/06
Belgrade, MT 59714	Qual: Public Member
HPH: 587-1373	
BPH: 587-1373	

Eloise received her degree in education from Eastern Montana College. She taught in the Bozeman area and has an avid interest in alternative health care as her grandmother was a midwife for many years.

Board of Athletics

MCA 2-15-1772

John Kinna	Appt: 04/08/02
P.O. Box 876	Term: 04/25/05
Fairfield, MT 59436	Qual: Public Member
HPH: 467-3319	
BPH: 467-3319	

John received his B.S. in Corporate Fitness from Montana State University in 1986. He has been involved in the Health Management Administration field since earning his degree. John has served as an inspector and also head inspector for all the Todd Foster boxing fights in Montana. He has attended numerous boxing rules and regulations workshops.

Board of Architects

MCA 2-15-1761

Eugene Vogl	Appt: 03/27/02
644 Grand Ave. Suite 1	Term: 03/27/05
Billings, MT 59101	Qual: Licensed Architect
HPH: 656-0322	
BPH: 245-6363	

Gene received his Bachelor of Architecture degree in 1970 from Montana State University. He is certified with the National Council of Architectural Registration Boards and holds licensure in Wyoming and North Dakota as well. Mr. Vogl joined the architectural firm of JGA in Billings in 1974 and was named President in 1992. As a project principal, facilities planner, designer and cost estimator, Mr. Vogl has played a major role in the development of millions of square

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feet of government and private sector facilities.

John Fontaine	Appt: 09/12/02
505 6th Ave. South	Term: 03/27/04
Glasgow, MT 59230	Qual: Public Member
HPH: 228-4955	
BPH: 228-3500	

John is currently employed by the Frances Mahon Deaconess Hospital in Glasgow. He has been the Director of Facilities Management and Plant Operations for nearly 25 years. John has experience in all aspects of design, planning, bidding and construction management.

Board of Barbers

MCA 2-15-1856

Edward Dutton	Appt: 06/11/02
433 Main St.	Term: 07/01/05
Kalispell, MT 59901	Qual: Licensed Barber
HPH: 756-8358	
BPH: 752-7090	

Ed had over 33 years of continuous employment with the St. Regis Paper Company. In 1993 he decided to change vocations and graduated from Big Sky College of Barber/Styling in Missoula. He has owned and operated his barbershop in Kalispell for eight years.

Sharon Richie	Appt: 07/01/01
712 S. 2nd St.	Term: 07/01/04
Hamilton, MT 59840	Qual: Licensed Barber
HPH: 363-0538	
BPH: 363-2731	

Sharon graduated in 1995 from the Big Sky College of Barber/Styling in Missoula. She has owned and operated her own business, SK Kuts, for over five years.

Delores Lund	Appt: 06/11/03
P.O. Box 166	Term: 07/01/05
Reserve, MT 59258	Qual: Public Member
HPH: 286-5473	
BPH: 286-5473	

Delores and her husband, Stan, have been in the farming business for over 50 years. Delores is the Director of Pioneer Manor, President of the Ladies Church Council and Past President and Founder of the Hospital Auxiliary.

Board of Chiropractors

MCA 2-15-1737

Dr. Daniel Prideaux	Appt: 01/14/02
1001 SW Higgins, Suite 102	Term: 01/01/05
Missoula, MT 59803	Qual: Licensed Chiropractor
HPH: 251-5690	
BPH: 721-4425	

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Dr. Prideaux received his Doctor of Chiropractic degree in 1981 from the Los Angeles College of Chiropractic. He has been in continuous practice in Missoula since 1982. Dr. Prideaux is a member of both the American and Montana Chiropractic Assoc. and served as Chairman on the Ethics Committee of the Montana Association.

Clinical Laboratory Science Practitioners

MCA 2-15-1863

John Michael Long
311 Georgetown Dr.
Glendive, MT 59330
HPH: 377-6453
BPH: 345-3370

Appt: 04/25/01
Term: 04/16/05
Qual: Clinical Lab Science Practitioner

John Michael received his Bachelor of Science in Microbiology from Montana State University in 1975. He is a trained EMT and is the working manager of the Glendive Medical Center's hospital laboratory for the past ten years.

Dr. Peter Smith
310 Sunnyview Lane
Kalispell, MT 59901
HPH: 892-2635
BPH: 752-1737

Appt: 04/25/01
Term: 04/16/05
Qual: Physician

Dr. Smith received his medical degree from the University of Iowa in 1996. He is Board Certified in Anatomic and Clinical Pathology through the American Board of Pathology. His current position is Associate Pathologist at Glacier Regional Medical Center in Kalispell.

Board of Cosmetologists

MCA 2-15-1857

Stephanie Stanek-Fischer
928 Broadwater Ave., Suite D
Billings, MT 59101
HPH: 248-3311
BPH: 245-0501

Appt: 07/01/01
Term: 07/01/05
Qual: Licensed Cosmetologist

Stephanie has been a cosmetologist for the past 24 years. She owns and operates the Hair Gallery in Billings as well as the Academy of Nail & Skin Technology, which she opened three years ago.

Kordelia French
621 W. Laurel
Plentywood, MT
HPH: 765-2063
BPH: 765-2063

Appt: 07/01/01
Term: 07/01/05
Qual: Public Member

Kordelia is the Administrative Assistant/Pastoral Minister at St. Joseph's Church in Plentywood. She holds an Education degree from Eastern Montana College and has been very active in Plentywood community activities.

Pam Lemieux
104 Custer
Helena, MT 59601
HPH: 442-9401
BPH: 442-9401

Appt: 07/01/01
Term: 07/01/05
Qual: Licensed Cosmetologist

Pam graduated from Ethel's College of Beauty Careers in Anaconda in 1964 and has owned and operated her own salon

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since 1989. She is a member of the National Cosmetology Assn. and holds career demonstrations at Helena Middle School and the Helena College of Technology. Pam also volunteers her job skills in hair care at area nursing homes.

Darlene Battaiola	Appt: 07/01/01
303 West Park St.	Term: 07/01/05
Butte, MT 59701	Qual: Licensed Cosmetologist
HPH: 494-7673	
BPH: 723-8565	

Darlene has been the owner and an educator at the Butte Academy of Beauty Culture since 1983. She has been a member of the National Cosmetology Assoc. and the Montana State Cosmetology since 1974. Darlene has been a very active member in both organizations and has attended numerous advanced tanning and continuing education courses through both organizations.

Verna Dupuis	Appt: 07/01/01
133 W. Mendenhall	Term: 07/01/05
Bozeman, MT 59715	Qual: Affiliated with a school of cosmetology
HPH: 586-9171	
BPH: 587-1265	

Verna is the owner of the Academy of Cosmetology in Bozeman, as well as the owner of Sunny Daze Tanning Salon. She graduated from Hollywood Beauty College in 1966 and is a member of the Montana State Cosmetology Assn, the National Interstate Council for Cosmetology Boards, and the National Sun Tanning Assn.

County Printing Board **MCA 2-15-1811**

Marianne Roose	Appt: 04/27/01
P.O. Box 2012	Term: 04/01/03
Eureka, MT 59917	Qual: County Commissioner
HPH: 882-4544	
BPH: 296-3139	

Marianne graduated from Lincoln County High School in 1962 and has been a homemaker and business owner. In 1990 she became the full time Lincoln County Justice Court Clerk and County Courthouse Annex Manager. She was appointed in 1997 to fill the term of County Commissioner and was elected to the position in 1998. She is an active member of the Lincoln County Electrical Co-operative and is a board member on the Northwest Public Power Board.

Julie Jordan	Appt: 04/27/01
HC 32 Box 4961	Term: 04/01/03
Miles City, MT 59301	Qual: County Commissioner
HPH: 354-6271	
BPH: 557-2760	

Julie graduated from Custer County High School in 1961. Her previous work experience has been with the Farm Home Administration as a clerk/secretary and a board member for over ten years. Julie has ranched in the Garfield County area for over 35 years and is now semi-retired. She was appointed as County Commissioner in 1997 and went on to win the election in November, 1998.

Nancy Clark	Appt: 04/27/01
Box 216	Term: 04/01/03
Ryegate, MT 59074	Qual: Public Member

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HPH: 568-2553
BPH: 568-2553

Nancy is a RN and EMT. She remains very active in her community and surrounding communities monitoring blood pressure and hypertension education. She has served on the Wheatland Memorial Hospital Board.

Verle Rademacher	Appt: 04/27/01
Box 349	Term: 04/01/03
White Sulphur Springs, MT 59645	Qual: Printing Industry Representative
HPH: 547-3830	
BPH: 547-3831	

Verle has been the owner/publisher of the Meagher County News for over 40 years and founded Wagon Box Publishing in 1990. He is a former president of the Montana Press Assn. and a member of the Montana Newspaper Advertising Service Board.

Curtiss Starr	Appt: 04/27/01
Box 850	Term: 04/01/03
Malta, MT 59538	Qual: Printing Industry Representative
HPH: 654-1995	
BPH: 654-2020	

Curtiss received a B.S. degree in journalism from Utah State University. He has a long history of involvement in the newspaper industry. In 1992 Curtis and his wife purchased Phillips County News and he is still the owner/editor of the paper.

Board of Crime Control

MCA 2-15-2006

Steven Rice	Appt: 01/01/03
Box 386	Term: 01/01/07
Miles City MT 59301	Qual: Representative of Youth Justice Council
HPH: 232-6886	
BPH: 232-4161	

Steven is the pastor of the First Lutheran Church in Miles City. He has served the religious community of southeastern Montana for twenty years. Prior to service in Miles City, Steven worked as a police officer in the State of Ohio, as a deputy sheriff, and Justice of the Peace for Powder River County. Concurrent with his pastoral office, he has served as the religious coordinator and chaplain to the Pine Hills Youth Correctional Facility. Steven has recently been appointed as Chairman of the Youth Justice Council, in conjunction with the Board of Crime Control.

Bill Slaughter	Appt: 03/12/01
Dept. of Corrections	Term: 01/01/05
Helena, MT 59620	Qual: Director of the Dept. of Corrections
HPH: 444-3911	
BPH: 444-3911	

Bill is a 1974 graduate of the Montana Law Enforcement Academy and a 1975 graduate of MSU where he earned a Bachelors of Science degree in Social Justice. He was elected Sheriff of Gallatin County in 1991 and re-elected for two additional terms. Bill retired from the County in 2000 and was appointed as Chief Corrections Officer by Governor Martz in 2001.

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MikeMcGrath
Attorney General
Helena, MT 59620
HPH: 444-2026
BPH: 444-2026

Appt: 03/12/01
Term: 01/01/05
Qual: Attorney General of Montana

Mike was elected as Montana's 19th attorney general in November 2000. As a five-term county attorney for Lewis and Clark County, he has extensive experience in criminal prosecution and local government issues. During his 18 years as a prosecutor, Mike focused on family violence issues, including sexual assault of children and domestic abuse.

Clifford Brophy
P.O. Box 729
Columbus, MT 59019
HPH: 322-4568
BPH: 322-5326

Appt: 03/12/01
Term: 01/01/05
Qual: Sheriff

Sheriff Brophy has more than 21 years of law enforcement experience and more than 18 years of coroner experience. He is a graduate of the FBI National Academy and the Traffic Institute Police Staff and Command School.

Chief Justice Karla Gray
Supreme Court
Helena, MT 59620
HPH: 444-5490
BPH: 444-5490

Appt: 03/12/01
Term: 01/01/05
Qual: Chief Justice

Chief Justice Gray received both a Bachelors and Masters degree from Western Michigan University and a J.D. from Hastings College of the Law in San Francisco, CA. Before her appointment as a Supreme Court Justice on February 11, 1991, she worked as a staff attorney and lobbyist for the Montana Power Company in Butte. Karla was elected Chief Justice in November 2000.

Robert Brooks
915 W. Gold
Butte, MT 59701
HPH: 723-3910
BPH: 723-3910

Appt: 03/12/01
Term: 01/01/05
Qual: Public Member

Bob received his law degree in 1970 from the University of Montana. He was the Powder River County Attorney and the former Assistant US Attorney in Butte. Bob is very active in the community and has held board member positions in numerous community service organizations.

John Flynn
P.O. Box 96
Townsend, MT 59644
HPH: 266-9226
BPH: 266-3444

Appt: 03/12/01
Term: 01/01/05
Qual: County Attorney

John graduated from the University of Montana School of Law in 1977. He was appointed Broadwater County Attorney in May of 1978 and has held that position since that time.

Elaine Allestad
HC 88 Box 3756
Big Timber, MT 59011

Appt: 03/12/01
Term: 01/01/05
Qual: County Commissioner

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HPH: 932-5822
BPH: 932-5151

Elaine was first elected as a Sweet Grass County Commissioner in 1986. She is interested in a justice system that is efficient, comprehensive and adequately funded.

Judge Dorothy McCarter	Appt: 03/12/01
228 Broadway	Term: 01/01/05
Helena, MT 59601	Qual: Judge
HPH: 443-7043	
BPH: 227-8205	

Judge McCarter received her J.D. in 1977 from the New England School of Law in Boston. She was elected in 1989 and still serves as District Judge in Helena. She is a member of the Montana Judges Assoc. and chairperson of the Montana Supreme Court Gender Fairness Commission.

Janet Stevens	Appt: 03/12/01
309 Eddy Ave.	Term: 01/01/05
Missoula, MT 59801	Qual: Public Member
HPH: 543-4177	
BPH: 543-4177	

Janet is the Chief Administrative Officer for the City of Missoula and has worked in local government for the past 25 years. She served as a Judge for Missoula County before being elected to the County Commission for seven years. In 1995 Mayor Dan Kennis appointed her to her current position.

Robert Jones	Appt: 03/12/01
P.O. Box 5021	Term: 01/01/05
Great Falls, MT 59403	Qual: Representing Police Chief
HPH: 771-1180	
BPH: 771-1180	

Bob has been in law enforcement for over 32 years. He was appointed Great Falls Chief of Police in 1986 and still serves in that capacity.

Bob Keenan	Appt: 05/30/01
P.O. Box 697	Term: 01/01/05
Bigfork, MT 59911	Qual: State Senator
HPH: 837-4989	
BPH: 837-6680	

Senator Keenan and his wife are local business owners in Bigfork. He has served as a former trustee and chairman on the local school board. Bob was a State Representative from 1995 through 1998 and was elected as a Senator in 1999.

William Mercer	Appt: 05/30/01
P.O. Box 1478	Term: 01/01/05
Billings, MT 59101	Qual: Ex-officio member and rep. of Title 1
HPH: 651-8659	of the Omnibus Crime Control & Safe
BPH: 657-6101	Streets Act / Chairman

President Bush nominated Bill as U.S. Attorney for the District of Montana on July 30, 2001. Bill sits on the Attorney General's Advisory Committee and on the Appellate Rules for the U.S. Court of Appeals for the Ninth Circuit.

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Governor Martz has appointed him as Board Chairman.

Rick Kirm	Appt: 01/01/03
Box 1267	Term: 01/01/05
Poplar, MT 59255	Qual: Representative of Local Government
HPH: 448-2226	
BPH: 448-2226	

Rick is a member of the Fort Peck Tribal Executive Board and the Law and Justice committee of the Tribe. Federal regulations governing Board of Crime Control recognize tribal government representatives as being local government representatives as well. His expertise and involvement in tribal issues will help further the goals and interests of the Board in northeast Montana.

Godfrey Saunders	Appt: 07/19/02
205 N. 11th	Term: 01/01/05
Bozeman, MT 59715	Qual: Educator
HPH: 586-4804	
BPH: 522-6200	

Godfrey has been involved in the education field for over 26 years. He is the principal at Bozeman High School and is in the final stages of earning his doctorate through Montana State University.

Sylvia Bookout-Reinicke	Appt: 01/01/03
P.O. Box 327	Term: 01/01/07
Alberton, MT 59820	Qual: Member of the House of Representatives
HPH: 722-3344	
BPH: 722-3344	

Sylvia served on the Mineral County Help Line for Domestic Violence and Sexual Assault. She is a Mineral Community Hospital Board trustee and was elected to represent House District 71 in 1997.

Marko Lucich	Appt: 01/01/03
155 W. Granite, 4th Floor	Term: 01/01/07
Butte, MT 59701	Qual: Chief Probation Officer
HPH: 723-8233	
BPH: 497-6377	

Marko is the current President of the Montana Juvenile Probation Officers Association. He has extensive involvement in various organizations and task forces dealing with drug, alcohol and tobacco abuse issues in Montana.

Alex Capdeville	Appt: 01/01/03
200 Cowan Hall	Term: 01/01/07
Havre, MT 59501	Qual: Public Member
HPH: 265-0620	
BPH: 265-3720	

Dr. Capdeville received his Doctor of Philosophy degree in Administration from Colorado State University and been involved in education since 1967. He has been the Chancellor of Montana State University - Northern since 2000.

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Board of Dentistry

MCA 2-15-1732

Dr. Sheldon Ivers
2501 6th Avenue S.
Great Falls, MT 59405
HPH: 761-3049
BPH: 727-2444

Appt: 03/29/02
Term: 03/29/07
Qual: Dentist

Dr. Ivers has been in private practice since 1967, having received his DDS from Marquette University in 1961. He is a member of the American Dental Assn., Montana Dental Assn., the Fourth District Dental Society, and the American Academy of Restorative Dentistry.

Clifford Christenot
2850 South Hwy 2
Libby, MT 59923
HPH: 293-7412
BPH: 293-7412

Appt: 03/29/02
Term: 03/29/07
Qual: Denturist

Cliff has been a licensed denturist since 1986 and has a private business, making dentures, porcelain bridges, and caps. He was a certified x-ray tech and hygienist in the Navy and assisted with maxiofacial reconstruction.

Carol Price
4 Burnt Mountain Ct.
Clancy, MT 59634
HPH: 443-8171
BPH: 443-2334

Appt: 03/29/02
Term: 03/29/07
Qual: Dental Hygienist

Carol has practiced dental hygiene in Montana since her graduation from Carroll College in 1990. She helped organize oral cancer screening for senior citizens while she was practicing in Billings. Carol has volunteered many hours to low income families in the Helena area through the Cooperative Dental Clinic.

Lesley Robinson
P.O. Box 1128
Malta, MT 59538
HPH: 654-2217
BPH: 654-2020

Appt: 03/29/02
Term: 03/29/07
Qual: Public Member

Lesley is currently the office manager and advertising director of the Phillips County News. She has been extensively involved in the cattle business and has held directorships in the Montana Stockgrowers Assoc., the Montana Beef Council and the Philips County Cattlewomen's Assoc. Through her activity in various organizations, Lesley has developed an outstanding record of facilitating exchange of ideas, problems and concerns.

Electrical Board

MCA 2-15-1874

Tony Martel
P.O. Box 308
Bozeman, MT 59771
HPH: 587-5186
BPH: 586-8585

Appt: 07/01/01
Term: 07/01/06
Qual: Public Member

Tony holds a degree in Business Finance from Montana State University. He has been involved in the construction business for over twenty nine years and is Vice President of Martel Construction, Inc.

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Linda Holden
170 Dupuyer Cutoff
Valier, MT 59486
HPH: 279-3326
BPH: 279-3326

Appt: 01/08/03
Term: 01/01/07
Qual: Public Member

Linda is a professionally certified piano teacher. She and her husband John raise registered polled Hereford cattle. Linda was elected to the State House of Representatives in 1999 and was the vice-chairman of Agriculture, Judiciary and Natural Resource Committees.

Board of Environmental Review

MCA 2-15-3502

David Fishbaugh
2180 Overland Ave., Suite 104
Billings, MT 59102
HPH: 248-1323
BPH: 651-5235

Appt: 05/19/01
Term: 01/01/05
Qual: Expertise in Hydrology

David obtained a BA Degree in Geology from Indiana University in 1976 and a MA Degree in Geology (Sedimentology) from Indiana University in 1980. He is a registered Professional Geologist in the State of Wyoming and has over 20 years of professional experience managing a wide variety of projects. He is currently a Principal Geologist/Hydrogeologist for a medium sized civil and environmental engineering firm in Billings.

Ward Shanahan
33 South Last Chance Gulch
Helena, MT 59601
HPH: 442-4059
BPH: 442-8560

Appt: 05/19/01
Term: 01/01/05
Qual: Attorney/ expertise in local government planning

Ward received his JD from the University of Montana in 1958. He has been affiliated with the same law firm since that time and is currently a senior partner in Gough, Shanahan, Johnson & Waterman. Ward was President of the State Bar of Montana, and his areas of expertise are Natural Resources, Property, Administrative Law, State and Local Taxation and Business, and Non-profit organizations.

Russell Hudson
8250 Farm to Market Road
Libby, MT 59923
HPH: 293-5698
BPH: 293-5698

Appt: 05/15/01
Term: 01/01/05
Qual: Public Member

Russell has been active in forestry for many years. He currently works part-time as a forestry consultant and operates a family-owned tree seed processing business. Russell has been active in numerous Forestry related organizations and is a current member of SAF, XI SIGMA PI, Western Forestry and Conservation Association, and the American Forestry Association. He was instrumental in the formation of the first ever Conservancy District in Montana for the purpose of lessening flood damage in Lincoln County and is currently the Secretary/grant writer for the district.

Garon Smith
2015 26th Avenue
Missoula, MT 59801
HPH: 728-4668
BPH: 243-4578

Appt: 05/15/01
Term: 01/01/05
Qual: Scientist

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Dr. Smith is an associate professor for the Department of Chemistry at the University of Montana. He has a B.A. in environmental biology and a Ph.D. in applied chemistry (analytical). Dr. Smith has produced numerous publications and is involved with many environmental grants/consulting/advisory positions. He is a volunteer scientist for the Boston Museum of Science and is a wish maker for "Wednesday's Child" program of Missoula Big Brothers/Big Sisters organization.

Kim Lacey	Appt: 01/07/03
P. O. Box 534	Term: 01/01/07
Glasgow, MT 59230	Qual: Public Member
HPH: 228-8128	
BPH: 228-2222	

Kim and her husband currently own and operate a hay and sheep operation west of Glasgow. Kim was previously an agricultural field representative for Senator Conrad Burns, the Natural Resources Coordinator for the Montana Stockgrowers Assn., and the Executive Secretary for the Montana Assn. of State Grazing Districts.

Susan Brooke	Appt: 01/07/03
208 James Ave.	Term: 01/01/07
Bozeman, MT 59715	Qual: Public Member
HPH: 539-8135	
BPH: 585-8135	

Susan has been involved in natural resource issues at many different levels and from various perspectives for many years. She has helped form local and statewide coalitions on natural resource issues and worked with agricultural associations on livestock issues in the state legislature.

Joseph Russell	Appt: 01/07/03
1035 First Ave. W.	Term: 01/01/07
Kalispell, MT 59901	Qual: County Health officer
HPH: 752-6199	
BPH: 758-8101	

Joe received his Master of Public Health degree from the University of Washington in Seattle in 1992. He is the Health Officer of the Flathead City-County Health Department and a Registered Sanitarian. Joe has been reappointed as Chairman of the Board.

Montana Arts Council

MCA 22-2-102

James Smrcka	Appt: 03/27/02
P.O. Drawer 751	Term: 02/01/05
Glasgow, MT 59230	Qual: Public Member
HPH: 228-2083	
BPH: 228-9391	

Jim is the principal owner/partner and firm manager of an accounting firm in Glasgow. He has been the Chairman of the Fort Peck Summer Theater Board and received a 1999 Governor's Arts Award for chairing the theater's fundraising efforts.

Mary Crippen	Appt: 03/27/02
P.O. Box 80747	Term: 02/01/07

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Billings, MT 59108
HPH: 656-1515
BPH: 656-1515

Qual: Public Member

Mary has been a strong supporter of community events in Billings. She has a sincere appreciation for the important role that all forms of art and theater play in the quality of community life.

Neal Lewing
345 Ponderilla Dr.
Polson, MT 59860
HPH: 883-4691
BPH: 883-4691

Appt: 03/27/02
Term: 02/01/07
Qual: Public Member

Neal is the Managing Director of the Port Polson Players Theatre and his wife, Karen is the Artistic Director of the Players. Neal has over 40 years of performance experience and had made a living as an actor, musical performer and writer for 30 years.

Mark Tyers
5670 Staffanson Rd.
Bozeman, MT 59718
HPH: 586-0149
BPH: 282-7261

Appt: 03/27/02
Term: 02/01/07
Qual: Public Member

Mark is a music teacher at Manhattan Christian High School, as well as a professional musician. He was an adjunct assistance professor in the music department at MSU and the director-producer/writer of Western American Films in affiliation with KXLF-TV.

Delores Heltne
44 Saddle Butte Dr.
Havre, MT 59501
HPH: 265-5254
BPH: 265-5254

Appt: 03/27/02
Term: 02/01/07
Qual: Public Member

Delores is chairperson of a committee that revitalized the Northern Showcase, a link for the arts at MSU-Northern as well as North Central Montana. This committee is part of the Montana Performing Arts Consortium. She also served on the Havre Community Concert Association Board for over 35 years.

John Dudis
220 Farview Drive
Kalispell, MT 59901
HPH: 752-0362
BPH: 752-6644

Appt: 03/27/02
Term: 02/01/07
Qual: Public Member

John is a CPA and tax attorney and a strong supporter of the Arts. He is currently the Vice Chairman.

Karie Lee Knierim
P.O. Box 646
Glasgow, MT 59230
HPH: 367-5275
BPH: 367-5275

Appt: 05/28/02
Term: 02/01/05
Qual: Public Member

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Kari has been involved with Fort Peck Fine Arts Council, Inc. for the last 15 years. She was elected as president of the Executive Board of the council and will hold that position for the next two years.

Fish, Wildlife & Parks Commission

MCA 2-15-3402

Michael Murphy
2401 Recreation Rd. S.
Wolf Creek, MT 59648
HPH: 235-4512
BPH: 431-2523

Appt: 09/14/01
Term: 01/01/05
Qual: District 1 representative

Michael is the Executive Director of the Montana Water Resources Association in Helena, which was established for the purpose of protecting water and other private property rights for Montana water users. He also represents the several thousand members of the Association at all water related state and national meetings, hearings and other activities.

Tim Mulligan
P.O. Box 694
Whitehall, MT 59759
HPH: 287-3787
BPH: 287-3746

Appt: 01/10/03
Term: 01/01/07
Qual: District 2 representative

Tim grew up on a ranch in the Cardwell area and has a family background in agriculture. He graduated from MSU with a B.S. in Zoology and also received a B.S. in Safety and Health from Montana Tech. Tim is an avid hunter and fisherman and owns and operates a business in Whitehall.

John Brenden
P.O. Box 970
Scobey, MT 59263
HPH: 783-5394
BPH: 783-5394

Appt: 01/10/03
Term: 01/01/07
Qual: District 4 representative

John was a member of the Northwest Power Planning Council from 1989 through 1993. While on the council he chaired the Fish Committee from 1992 through 1993. John also represented Montana for the Western Governors Assoc. and National Governors Assoc. on land use, natural resources and Endangered Species Act on behalf of former Governor Stephens.

Board of Funeral Services

MCA 2-15-1743

Niles Nelson
P. O. Box 750
Libby, MT 59923
HPH: 293-5791
BPH: 293-4134

Appt: 07/02/02
Term: 07/01/07
Qual: Licensed Mortician

Niles received his Montana Mortician license in 1977. He served as mortician/funeral director at Vial Funeral Home in Libby from 1977 to 1992. He purchased ownership interest in Vial Funeral Home in October 1992 and has served as president of the firm since that time.

Jean Ruppert
849 W. Galena

Appt: 07/02/02
Term: 07/01/07

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Butte, MT 59701
HPH: 782-2721
BPH: 782-2721

Qual: Public Member

Jean manages rental units in Butte and is vice chairman of the Landlord Assn for the western part of the state. She has been involved in 4-H, has been president of the Fair Board, and is a member of Forester Wives.

Jered Scherer
1021 Alderson Avenue
Billings, MT 59102
HPH: 245-7289
BPH: 245-6427

Appt: 07/0202
Term: 07/01/07
Qual: Cemetaryian

Jered owns Terrace Gardens Cemetery in Billings, as well as Smith Funeral Chapels. He has been a licensed mortician in Montana for over 38 years. He has had many years of experience with cemetery operation coming from a multigenerational family in the funeral business.

Board of Hail Insurance

MCA 2-15-3003

Lillian Ostendorf
HC 30 Box 8305
Powderville, MT 59345
HPH: 554-3484
BPH: 554-3484

Appt: 04/23/02
Term: 04/18/05
Qual: Public Member

Lillian is an integral part of a family farming/ranching operation south of Miles City. Her family has been a state hail insurance client for years and has been an active participant in many agricultural issues and activities.

Hard Rock Mining Impact Board

MCA 2-15-1822

Craig Rehm
P.O. Box 956
Ft. Benton, MT 59442
HPH: 622-3604
BPH: 622-3351

Appt: 08/30/01
Term: 01/01/05
Qual: Representative of a financial institution
and District 3

Craig's banking career began in 1980 in Miles City. As administrator, he assisted in the formulation of Montana's Microbusiness Finance Program, and served in the position of Marketing Bureau Chief for the Montana Department of Agriculture. Craig is currently president and CEO of the First State Bank of Fort Benton and is also a director of the Montana Bankers Association.

Betty Aye
Route 89
Broadus, MT 59317
HPH: 436-2441
BPH: 436-2441

Appt: 08/30/01
Term: 01/01/05
Qual: County Commissioner representing District 4

Betty is a native of Powder River County and has operated the family ranch with her husband. She is extensively involved in the community, having been a member of the school board for many years. She has recently been elected as a County Commissioner.

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Tammy Johnson
Box 624
Whitehall, MT 59759
HPH: 287-3012
BPH: 287-3012

Appt: 08/30/01
Term: 01/01/05
Qual: Representative of industry from District 2
which is an impact area

Tammy lives in Whitehall with her husband and family. She is the Executive Director of CURE (Citizens United for a Realistic Environment), which focuses on natural resource and public land issues. Tammy is also the current president of the Montana Resource Providers Coalition which is comprised of several organizations and associations that lend a strong voice on resource and public land issues. She sits on the Board of Trustees for the Northwest Mining Assn and chairs the Education Subcommittee. She is also an active member of the Women's Mining Coalition and a member of the Montana Developmental Disabilities Region V Council.

Board of Hearing Aid Dispensers

MCA 2-15-1850

David King
1300 Avenue C, #1320
Billings, MT 59102
HPH: 652-3560
BPH: 259-7983

Appt: 06/07/01
Term: 07/01/04
Qual: Nationally Certified Audiologist with a master's degree

David has been a licensed dispenser since 1988. His family originated Beltone Hearing Clinic in 1958, and David took over the business in 1991. He is a nationally certified audiologist holding a Masters degree, and is a member of the American Speech and Hearing Assn., the American Academy of Audiology, and the Montana Speech and Hearing Assn.

John Delano
P.O. Box 1172
Helena, MT 59624
HPH: 442-6645
BPH: 442-3410

Appt: 07/18/02
Term: 07/01/05
Qual: Public Member

John was born in Billings and received a Bachelor of Arts degree from the University of Montana. He served in the Army in World War II. John has been in the Public Affairs arena for the past fifty-five years and has served on various statewide and civic organizations. He also uses a hearing aid.

Susan Kalarchik
201 Calhoun St.
Butte, MT 59701
HPH: 494-2978
BPH: 494-2880

Appt: 07/18/02
Term: 07/01/05
Qual: Licensed hearing aid dispenser with a national certification in audiology and a master's degree

Susan has held a Montana license since 1994. She became a hearing aid dispenser in 1995. She is currently employed as the Regional Audiologist for the school districts encompassing ten counties in southwestern Montana, and is a nationally certified audiologist holding a masters degree.

Historic Preservation Review Board

MCA 2-15-1512

Marcella Knedler
Box 151
Geraldine, MT 59446

Appt: 10/11/01
Term: 10/01/05
Qual: Public Member

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HPH: 737-4564
BPH: 737-4564

Marcella is a rancher and retired teacher who has worked tirelessly to promote local historic preservation. Her efforts include work on three National Register nominations, as well as raising funds and community support for the restoration of the railroad depot in Geraldine that now serves as a community center.

Douglas Johnson	Appt: 10/01/02
543 Fox Meadow Lane	Term: 10/01/06
Hamilton, MT 59840	Qual: Historic property administrative expertise
HPH: 961-3019	
BPH: 961-3019	

Doug has served as the Executive Director of the Daly Mansion in Hamilton for twelve years. He was also a board member of the Museums Association of Montana for five years, three of which he served as treasurer.

Conrad Fisher	Appt: 10/01/02
P.O. Box 999	Term: 10/01/06
Lame Deer, MT 59043	Qual: Tradition cultural property expertise
HPH: 477-6607	
BPH: 477-6215	

Conrad is an enrolled member of the Northern Cheyenne Tribe and is the Dean of Cultural Affairs at Chief Dull Knife College in Lame Deer. He has worked with the Historic Preservation office on a number of National Register projects including the listing of the Wolf Mountains Battlefield, a Great Sioux War battlefield of national significance.

Montana Historical Soc. Bd. of Trustees MCA 22-3-104

Larry McRae	Appt: 07/16/01
5280 Grant Creek Rd.	Term: 07/01/06
Missoula, MT 59802	Qual: Public Member
HPH: 251-6137	
BPH: 543-0700	

Larry holds a Certified Hotel Administrator designation from the American Hotel and Motel Association and has been in the hospitality business since 1961. He has served as President of the Montana Innkeepers Assoc. and was the Chairman of the Montana Tourism Advisory Council.

Judy Cole	Appt: 07/16/01
Box 286	Term: 07/01/06
Hysham, MT 59038	Qual: Public Member
HPH: 342-5400	
BPH: 342-5400	

Judy earned her teaching degree from Montana State University in Billings. She taught for fifteen years and has recently retired. Judy still teaches business writing classes for Rocky Mountain College in Billings for the continuing education department at the college.

Bob Morgan	Appt: 07/16/01
30 Eagle Rock Dr.	Term: 07/01/06

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Clancy, MT 59634
HPH: 442-4629
BPH: 442-4629

Qual: Public Member

Bob has a long history with the Historical Society dating back to 1952, having once served as an Exhibits Designer, Curator, Curator of Collections, and then Museum Chief in 1968. Since leaving the Society in 1972, Bob has pursued a successful career in fine art. He has also established a reputation on a national level as a Charles M. Russell authority.

Shirley Groff
3107 Floral Blvd.
Butte, MT 59701
HPH: 494-5014
BPH: 494-5014

Appt: 07/16/01
Term: 07/01/05
Qual: Public Member

Shirley is a retired elementary school teacher. During her 32 years of teaching, she strived to preserve and promote the principles of history on all levels by using current events that her students could appreciate. Shirley has served the Montana Society Daughters of the Revolution in all levels, including as the Montana State Regent from 1988 through 1990.

Steve Browning
139 N. Last Chance Gulch
Helena, MT 59601
HPH: 443-6820
BPH: 443-6820

Appt: 08/09/02
Term: 07/01/07
Qual: Public Member

Steve is an attorney with admission to practice in Montana, District of Columbia, United States Supreme Court and various U. S. District Courts and Courts of Appeals. He is also a registered lobbyist for Congress and the State of Montana. He has served on numerous community service organizations and has extensive business experience.

Mary Murphy
904 West Dickerson
Bozeman, MT 59715
HPH: 587-0813
BPH: 994-6879

Appt: 08/09/02
Term: 07/01/07
Qual: Historian

Mary is a professor at MSU-Bozeman and has been involved in the study and teaching of Montana History and the History of the American West for nearly twenty years. She speaks around the state on a variety of topics in Montana history, and in the last three years has been part of the Montana Committee for the Humanities Speakers' Bureau.

Don Wetzel
310 S. 12th Ave.
Bozeman, MT 59715
HPH: 556-8665
BPH: 556-8665

Appt: 08/09/02
Term: 07/01/07
Qual: Public Member

Don is a former Indian Affairs Advisor to the Governor, a teacher and a school administrator in several systems including Browning and Harlem. He has also served on the Montana Historical Society's State Historic Preservation Review Board.

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Board of Horseracing

MCA 2-15-3106

T.J. Graveley
1010 Sautter Lane
Townsend, MT 59644
HPH: 266-3826
BPH: 439-3826

Appt: 02/06/02
Term: 02/20/05
Qual: Public Member representing Dist. 4

T.J. has been involved in the family ranch in the Townsend area since 1993. He attended Western Montana College and is very active in rodeo throughout Montana.

Board of Housing

MCA 2-15-1814

Bob Thomas
322 Turner St.
Stevensville, MT 59870
HPH: 777-5010
BPH: 777-5005

Appt: 01/01/03
Term: 01/01/08
Qual: Public Member

Bob is currently the chairman of the Board of Housing. Under his leadership many innovative programs have been instituted such as prison made homes and holding board meetings in various cities and towns around the state to inform people of their services. Bob was recently elected as a director to the National Council of State Housing Boards.

Susan Moyer
15 Iris Court
Kalispell, MT 59901
HPH: 752-7790
BPH: 758-7740

Appt: 01/01/03
Term: 01/01/07
Qual: Public Member

Susan has been employed with the City of Kalispell since January 1979. She became the Community Development Director four years ago after serving in various affordable housing roles, the last being a ten year service as the city's Community Development Housing Manager.

Judy Glendenning
900 N. Montana Ave., Suite A-4
Helena, MT 59601
HPH: 443-5976
BPH: 443-1432

Appt: 01/01/03
Term: 01/01/07
Qual: Public Member

Judy has been involved in the real estate business for over 25 years. She is a broker and has been active in her local association and the Montana Association of Realtors, serving on the board and various committees throughout the years.

Board of Landscape Architects

MCA 2-15-1872

Janet Thomas
HC 81, Box 7
Hobson, MT 59452
HPH: 423-5582
BPH: 423-5582

Appt: 08/17/01
Term: 07/01/05
Qual: Public Member

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Janet is a former dental hygienist who is now retired. She and her husband, Bill, a retired dentist and current State Representative, are very active in volunteer work for their community and church.

Shelly Engler	Appt: 08/17/01
1146 South Spruce	Term: 07/01/05
Bozeman, MT 59715	Qual: Landscape Architect
HPH: 587-3400	
BPH: 587-3406	

Shelly is a licensed landscape architect who has worked for Cashman Nursery since 1983. She received a B.S. in Agriculture from Montana State University in 1982, majoring in landscape horticulture and landscape design option. She also received an M.S. in Agronomy from MSU in 1985 with ornamental horticulture emphasis.

David Hummel	Appt: 08/17/01
2803 Patricia Lane	Term: 07/01/05
Billings MT 59102	Qual: Public Member
HPH: 656-2116	
BPH:656-2116	

David received his B.S. in Civil Engineering in 1962 at Yale University and an M.S. in Civil Engineering at Stanford University in 1963 and has been licensed in Montana since 1983. He is currently the Manager of the Maxim Technologies, Inc. in Billings. He is a member of the National Society of Professional Engineers and the American Society of Civil Engineers.

Robert Broughton	Appt: 08/19/02
2259 Meridian Rd.	Term: 07/01/06
Victor, MT 59875	Qual: Licensed Landscape Architect
HPH:642-6714	
BPH: 642-6500	

Bob purchased Bitterroot Nursery in 1989 and is the owner of Empire Landscaping in Victor. His firm specializes in residential, commercial and reclamation landscaping projects.

State Library Commission

MCA 22-1-101

Ralph Atchley	Appt: 05/18/01
P.O. Box 1583	Term: 05/22/04
Malta, MT 59538	Qual: Public Member
HPH: 654-1997	
BPH: 654-2407	

Ralph is a patrolman and a Major in the Army National Guard. He is currently a member and Vice Chairman of the Phillips County Library Board. Ralph has served as a Federation Representative with the Golden Plains Library Federation and in this capacity has worked directly with members of the Montana State Library

Gail Staffanson	Appt: 06/17/02
Box 3076	Term: 05/22/05
Sidney, MT 59270	Qual: Public Member
HPH: 798-3354	
BPH: 798-3354	

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Gail was a teacher and librarian for seven years and served on the local Library Consortium Committee for several years. She and her husband have a farm and ranch operation and both are active Farm Bureau members.

Alvin Randall	Appt: 07/17/02
413 N Milnor Lake Road	Term: 05/22/05
Troy, MT 59935	Qual: Public Member
HPH: 295-4023	
BPH: 293-2779	

Alvin earned a Masters of Library Science in the areas of both school and public libraries. He retired from the Libby Public Schools in 1999 and is presently serving as the public library director in Libby. He is also the Troy Trustee for the Lincoln County Free Library and has been an active member of the Montana library community for over thirty years.

Board of Medical Examiners

MCA 2-15-1841

Dr. Kay Dorr	Appt: 09/01/01
South Star Route 289	Term: 09/01/05
Nashua, MT 59248	Qual: Public Member
HPH: 367-5311	
BPH: 228-9349	

Kay has been a licensed psychologist since 1980 and is currently a Clinical Psychologist and Associate Director - Region I at Eastern Montana Mental Health Center in Glasgow. She received her M.S. and Ph.D. in Psychology at Auburn University and completed her internship at Mayo Clinic and Hospital.

Linda Melick	Appt: 09/01/01
1219 W. Water Street	Term: 09/01/05
Lewistown, MT 59457	Qual: Nutritionist
HPH: 538-8358	
BPH: 538-7711	

Linda is a licensed nutritionist and the Director of Clinical Nutrition at Central Montana Medical Center in Lewistown.

Dr. Van Kirke Nelson	Appt: 09/01/01
210 Sunnyview Lane	Term: 09/01/05
Kalispell, MT 59901	Qual: Doctor of Medicine
HPH: 755-5656	
BPH: 752-5252	

Dr. Nelson earned his medical degree in 1957 from the University of Southern California in Los Angeles and has been a partner in the Kalispell OB-GYN Associates, Inc. since 1962. Dr. Nelson is an Attending Physician at the Flathead Outpatient Surgical Center and the Kalispell Regional Medical Center, and has been a member of the Montana Medical Association for over thirty years.

Susan McRae	Appt: 09/01/01
P.O. Box 1314	Term: 09/01/05
Dillon, MT 59725	Qual: Public Member
HPH: 683-2766	
BPH: 683-9020	

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Susan holds a Bachelor of Science degree in Accounting from Montana State University. In 1966 she started her own accounting firm, McRae and Associates in Dillon. Susan is a member of the American Institute of Certified Public Accountants and the Montana Society of Certified Public Accountants.

Dr. Anne Williams	Appt: 09/04/02
621A 2nd St. S.	Term: 09/01/06
Glasgow, MT 59230	Qual: Doctor of Medicine
HPH: 367-5508	
BPH: 228-2413	

Dr. Williams received her Doctor of Medicine degree from the University of California in San Diego in June of 1981 and has been a board certified surgeon since 1987. She has been in private practice in general surgery in Glasgow since 1986. She is also the Medical Director for the Valley County EMS Service and STAT Air Ambulance Service and a member of the Montana Committee on Trauma. She is currently serving as chair.

Dr. Michael LaPan	Appt: 09/04/02
214 14th Ave. S.W., Suite 103	Term: 09/01/06
Sidney, MT 59243	Qual: Licensed Podiatrist
HPH: 488-7463	
BPH: 488-2241	

Dr. LaPan has been board certified in his profession for 10 years. He has practiced podiatric medicine in eastern Montana since 1993. Dr. LaPan is an active member of the medical staff at Sidney Health Center and was elected to serve as Chief of Staff at the hospital.

Dr. Arthur Fink	Appt: 09/04/02
107 Dilworth	Term: 09/01/06
Glendive, MT 59330	Qual: Doctor of Osteopathy
HPH: 365-4520	
BPH: 345-8910	

Dr. Fink received his Doctor of Osteopathy degree from the University of Health Sciences College of Osteopathic Medicine in Kansas City, Missouri in 1991. His emphasis is on General Internal Medicine with extra training in critical care, ventilator management, hemodynamic monitoring and echocardiograms. Dr. Fink is currently an internal medicine physician in Glendive with both a clinical and hospital practice.

Montana Power Authority

MCA 69-9-107

Gary Akelstad	Appt: 07/02/01
P.O. Box 32	Term: 07/02/03
Galata, MT 59444	Qual: Public Member
HPH: 432-3275	
BPH: 432-3275	

Gary has been involved in farming and ranching his entire life and has received the Farmer of the Year and Elk of the Year awards. He was named Conservationist of the Year in 1972. He served in the Montana Senate from 1979 through 1998. Gary owns and operates Akelstad Farms in the Galata area.

Steve Browning	Appt: 07/02/01
139 N. Last Chance Gulch	Term: 07/02/03
Helena, MT 59601	Qual: Public Member
HPH: 443-6820	
BPH: 443-6820	

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Steve is an attorney with admission to practice in Montana, District of Columbia, United States Supreme Court and various U. S. District Courts and Courts of Appeals. He is also a registered lobbyist for Congress and the State of Montana. He has served on numerous community service organizations and has extensive business experience.

Gary Buchanan	Appt: 07/02/01
2825 3rd Ave. N.	Term: 07/02/03
Billings, MT 59101	Qual: Member at large w/ experience in
HPH: 252-0463	financial, banking and bonding matters
BPH: 248-7851	

Gary is Senior Vice President and Regional Director at D.A. Davidson & Co. His regional management responsibilities include the DAD offices in Billings, Helena, Cody, Sheridan and Gillette, Wyoming. He was the first Director of the Montana Department of Commerce and served as Chairman of the Montana Banking Board.

Karen Fagg	Appt: 07/02/01
P.O. Box 31318	Term: 07/02/03
Billings, MT 59107	Qual: Member at large w/ experience in energy
HPH: 252-8131	markets in Western states
BPH: 656-6398	

Karen is President of HKM Engineering, Inc. in Billings. Her responsibilities include ensuring all operations are conducted within contract guidelines, on schedule and within budget when providing engineering, environmental, materials and analytical laboratory services to federal, state and local government agencies, as well as private industry. Karen served as chief lobbyist in 1993 representing the Governor. She was the Director of the Montana Department of Natural Resources and Conservation from 1989 through 1992.

Kathy Ogren	Appt: 07/02/01
P.O. Box 3353	Term: 07/02/03
Missoula, MT 59806	Qual: Representative of commercial & industrial
HPH: 251-6037	enterprise energy consumption
BPH: 251-2525	

Kathy is a graduate of the University of Montana with a Bachelors of Arts degree in Microbiology. She is the owner of Bitterroot Motors in Missoula and is a member of the board of directors for the Federal Reserve Bank. Kathy is very active in her community.

Lt. Gov. Karl Ohs	Appt: 07/02/01
P.O. Box 201901	Term: 07/02/03
Helena, MT 59620	Qual: Representative of irrigated agriculture and
HPH: 444-3111	residential energy consumption
BPH: 444-3111	

Lt. Governor Ohs has an extensive ranching background. In 1988 he founded and became chairman of Montana Agricultural Producers, Inc., a co-op for producing and marketing alternative crops. He served in the House of Representatives from 1995 through 1999 and was elected Lieutenant Governor in 2000.

Jean Turnage	Appt: 07/02/01
P.O. Box 85	Term: 07/02/03
Polson, MT 59860	Qual: Public Member
HPH: 883-9329	
BPH: 883-9329	

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Former Chief Justice Turnage is an honorably discharged veteran from the Army Air Corp. He received his law degree from the University of Montana in 1951 and was admitted to the State Bar. He established his law practice in Polson the same year. Jean was elected to the House of Representatives in 1962 and to the Senate in 1964. He served continuously for twenty years until elected as Chief Justice of the Supreme Court in 1985. Jean retired from public service in 2000.

Board of Nursing

MCA 2-15-1844

Kim Powell
205 Evans Ave.
Missoula, MT 59801
HPH: 728-1949
BPH: 728-4100

Appt: 07/01/01
Term: 07/01/05
Qual: Registered Nurse

Kim received her BS in Nursing in 1975 at Indiana University and is currently the director of emergency services at Community Medical Center in Missoula. She is the former director of the Montana Breast Center and the Newborn Intensive Care Unit at Community Medical Center. She is also currently an instructor of advanced cardiac life support and an emergency nurses pediatric course.

Lorena Erickson
311 Popham Lane
Corvallis MT 59828
HPH: 961-3330
BPH: 961-3330

Appt: 07/03/02
Term: 07/01/06
Qual: Public Member

Lorena has been a rancher/farmer for over 39 years. She is a Ravalli County Election Judge/Clerk and a former board member of the Western Montana Sheep Growers Assn. She is also a former board member of the Farmers Mutual Fire Insurance of Ravalli County and Corvallis Public Schools.

Steven Rice
52 Balsam Drive
Miles City MT 59301
HPH: 232-6886
BPH: 232-4161

Appt: 07/03/02
Term: 07/01/06
Qual: Public Member

Pastor Rice has been the pastor of the First Lutheran Church in Miles City for the past 12 years and has been in the pastoral ministry in southeastern Montana since 1980. For over 5 years, he has served on various boards and committees of Holy Rosary Health Center, including chairmanship of the Pastoral Care Advisory Board, membership on the Patient Care Committee and Community Relations Committee. He also serves as an intermittent chaplain for the Veteran's Hospital in Miles City.

Jeanine Thomas
723 Benjamin Street NW
Ronan MT 59864
HPH: 676-0955
BPH: 676-4441

Appt: 07/03/02
Term: 07/01/06
Qual: Licensed Practical Nurse

Jeanine graduated with honors from the LPN program at Northern Montana College in 1977 and has worked at St. Luke Hospital in Ronan since that time.

Karen Pollington
One Kober Dr.
Havre, MT 59501

Appt: 07/03/02
Term: 07/01/06
Qual: Registered Professional Nurse

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HPH: 265-6425
BPH: 265-1303

Karen has 30 years experience in nursing, 20 years being in nursing management. She has been employed at Northern Montana Healthcare since 1969 and serves as Vice President of Patient Care Services at the facility.

Connie Schultz	Appt: 12/12/02
621 3rd St. South	Term: 07/01/03
Glasgow, MT 59230	Qual: Registered Nurse
HPH: 526-3501	
BPH: 228-3500	

Connie obtained her BSN through the US Army and is a graduate of the University of Maryland. After serving 23 years in the military, she is the chief nursing officer at Frances Mahon Deaconess Hospital in Glasgow.

Board of Nursing Home Administrators MCA 2-15-1845

Carla Neiman	Appt: 05/28/02
P.O. Box 768	Term: 05/28/07
Plains, MT 59859	Qual: Representative of an institution concerned
HPH: 741-3400	with the care of aged patients
BPH: 826-4800	

Carla is the Chief Financial Officer at Clark Fork Valley Hospital and Nursing Home. She has been employed at the facility since October 1994. Prior to becoming CFO, she served as Director of Communications and Development and as Risk Manager of the hospital.

Tom Miller	Appt: 07/30/02
1822 Cannon St.	Term: 05/28/06
Helena, MT 59601	Qual: Public Member
HPH: 443-2855	
BPH: 443-2855	

Tom started his teaching career in 1957 and was a principal in the Helena school system for 26 years, retiring in 1991. He is very active in the Masonic Lodge and other community service organizations.

Board of Occupational Therapy Practice MCA 2-15-1749

Danette Rasmussen	Appt: 01/31/02
596 Ator Creek Road	Term: 12/31/05
Antelope, MT 59211	Qual: Public Member
HPH: 286-5541	
BPH: 286-5541	

Dannette comes from a ranching background and graduated from Montana State University with a degree in civil engineering. She is involved in the community as a board member for the local hospital and serves as a community election judge.

Board of Oil and Gas Conservation MCA 2-15-3003

Denzil Young	Appt: 01/01/03
P.O. Box 620	Term: 01/01/07
Baker, MT 59313	Qual: Landowner w/ no mineral rights

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HPH: 778-2542
BPH: 778-2406

Denzil attended the University of Montana in Missoula and earned his B.A. in Business Administration in 1951 and his J.D. in 1970. He has served as the Fallon County Attorney, Plevna Town Attorney, Ekalaka City Attorney, and is currently in private practice in Baker. He is very experienced in oil and gas law.

Elaine Mitchell	Appt: 01/01/03
P.O. Box 607	Term: 01/01/07
Cut Bank, Mt 59427	Qual: Public Member
HPH: 873-2672	

Elaine attended Dawson County Junior College and the University of Montana. She has an extensive accounting background and is well versed in the preparation of financial statements of proprietorships, corporations and trusts.

Jack King	Appt: 01/01/03
P.O. Box 2527	Term: 01/01/07
Billings, MT 59103	Qual: Rep. of oil/gas industry
HPH: 656-0868	
BPH: 252-0576	

Jack received his B.A. degree in Economics from the University of Montana in 1974. His work experience in the oil and gas field started in 1978 with the Montana Power Company as an exploration land manager based in the Billings office. He is the Director and Vice President of LIO Inc. an oil and gas exploration company and has worked for Hancock Enterprises in Billings since 1983.

Board of Outfitters	MCA 2-15-1883
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Jack Billingsley	Appt: 10/01/01
P.O. Box 768	Term: 10/01/04
Glasgow, MT 59230	Qual: Fishing & Hunting outfitter
HPH: 367-5577	
BPH: 367-5577	

Jack has been providing hunting and fishing services in Northeastern Montana for over 20 years. He and his family operate a fourth generation ranch in the Glasgow area.

Wayne Underwood	Appt: 10/17/02
P.O. Box 1559	Term: 10/01/05
Billings, MT 59103	Qual: Sports person
HPH: 652-4344	
BPH: 652-4344	

Wayne is a retired vice president of a seismic exploration company based in Houston, Texas. He is an avid sportsman who has hunted and fished in most of North America.

Mel Montgomery	Appt: 10/17/02
Box 92	Term: 10/01/05
Lima, MT 59739	Qual: Big Game Outfitter
HPH: 276-3463	
BPH: 276-3463	

Mel's outfitting business, Centennial Outfitters, has been in operation since 1987. He and his family presently operate

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under permits from the BLM and Forest Service in the Lima Peaks and Centennial Valley.

Leslie Dolezal	Appt: 10/17/02
3428 Fife Circle	Term: 10/01/05
Billings, MT 59101	Qual: Public Member
HPH: 252-5995	
BPH: 252-6306	

Les owns and operates Canoe Montana, a river expedition business based in Fort Benton. He has a diversified business background.

Jennifer Cote	Appt: 10/17/02
3314 Paxson	Term: 10/01/05
Missoula, MT 59801	Qual: Sports person
HPH: 728-5539	
BPH: 543-8088	

Jennifer was a board member of TIP-MONT, the Fish, Wildlife and Parks crime stoppers program from 1985-1998 and for nine years served as District Representative and State Treasurer for the Montana Wildlife Federation. Jennifer is an avid outdoors person and especially enjoys fishing.

Board of Pardons and Parole **MCA 2-15-2302**

Roxanne Wilson	Appt: 01/07/02
Box 10	Term: 01/01/06
Busby, MT 59016	Qual: Public Member w/knowledge of Indian culture
HPH: 592-3582	
BPH: 748-4150 x 1426	

Roxanne is Northern Cheyenne and is a teacher at Colstrip.

Sheryl Hoffarth	Appt: 01/07/02
4114 State Ave.	Term: 01/01/05
Billings, MT 59101	Qual: Auxiliary Member w/ knowledge of Indian culture
HPH: 245-4277	
BPH: 245-4277	

Sheryl is a recent retiree from the Department of Corrections after serving for 26 years . She began her career as the Director of the Women's Life Skills Center in 1978, and until her retirement, she had administrative authority of the Juvenile Transitions Centers in Billings and Great Falls. She is very familiar with the variety of services the Correctional system offers to Native American inmates.

Board of Personnel Appeals **MCA 2-15-1705**

Michael O'Neill	Appt: 04/17/01
2802 White Blvd.	Term: 01/01/05
Butte, MT 59701	Qual: Management Representative
HPH: 494-5694	
BPH: 497-2782	

Michael began his career with Montana Power in 1981. He is currently the Human Resource business consultant and is responsible to the Utility Division of Touch America for all human resource related activities. His focus is on labor and acquisition activities.

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James Reardon
P.O. Box 70
East Helena, MT 59635
HPH: 227-6937
BPH: 226-6937

Appt: 04/17/01
Term: 01/01/05
Qual: Labor Union Representative

Jay is a 26-year union member with extensive experience in contract negotiations, grievance handling and contract administration. He was elected president of Local 72 of the United Steelworkers of America in 1985 and was re-elected three times as president. Jay served on the Montana Board of Labor Appeals from 1988 through 1992.

Thomas Schneider
P.O. Box 5600
Helena, MT 59620
HPH: 442-6464
BPH: 442-4600

Appt: 04/17/01
Term: 01/01/05
Qual: Labor Union Representative

Tom is the Executive Director for the Montana Public Employees Assn. He feels an obligation to reach a proper decision based on the facts of the case without regard to any personal feelings.

Board of Pharmacy

MCA 2-15-1843

William Burton
Kmart Pharmacy
Helena, MT 59601
HPH: 442-1247
BPH: 449-5587

Appt: 07/30/01
Term: 07/01/06
Qual: Licensed Pharmacist

Bill is a graduate of both Montana State University in Medical Technology and of the University of Montana in Pharmacy. He started his pharmacy internship in Lewistown and has been active in the business for over 15 years. For the past four years he has served as the pharmacy manager at the Helena Kmart.

Ann Pasha
P.O. Box 79
Highwood MT 59450
HPH: 733-2028
BPH: 733-2028

Appt: 07/31/02
Term: 07/01/07
Qual: Public Member

Ann and her husband are farmers/ranchers in the Highwood area. She is a graduate of MSU with a degree in Agricultural Science. She previously served on the Board of Alternative Health.

Board of Physical Therapy Examiners

MCA 2-15-1858

Bruce Lamb
P.O. Box 1231
Havre, MT 59501
HPH: 265-4072
BPH: 262-1171

Appt: 07/11/01
Term: 07/01/04
Qual: Physical Therapist

Bruce received his Physical Therapy degree in 1981 from the University of Washington. He has been the manager of the Physical Therapy Department at Northern Montana Hospital in Havre since 1989. Bruce also provides outreach physical therapy services to the Ft. Belknap Indian Reservation on a weekly basis.

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Jeff Swift
1000 25th St. N., Suite 200
Great Falls, MT 59401
HPH: 761-0673
BPH: 453-5555

Appt: 07/18/02
Term: 07/01/05
Qual: Physical Therapist

Jeff received his B.S. degree in Physical Therapy in 1982 from the University of Washington. He was a staff physical therapist at the Montana Deaconess Medical Center in Great Falls from 1982 until 1995. In 1995 he became the owner/Director of River's Edge Physical Therapy Clinic in Great Falls.

Board of Plumbers

MCA 2-15-1875

Marlene Jackson
26 Perth
Glasgow, MT 59230
HPH: 228-8540
BPH: 228-8038

Appt: 05/22/01
Term: 05/04/05
Qual: Public Member

Marlene has been employed at Fossum Ready Mix in Glasgow for over 29 years. She has a thorough understanding of heavy equipment, understands business, and has acted as a mediator between the city council and various unions. She has been a city councilwoman for 14 years.

Margie Laknar
4800 Laknar Lane
Dillon, MT 59725
HPH: 683-6394
BPH: 683-6394

Appt: 02/27/02
Term: 05/04/03
Qual: Public Member

Margie is recently retired from the hardware business which she owned and operated in Dillon for over 24 years. She currently occupies her time working with the Youth Challenge Program based on the Dillon college campus. Margie is very active in community youth programs.

Terry Tatchell
2515 Gold Rush
Helena, MT 59601
HPH: 443-1742
BPH: 443-8900

Appt: 05/21/02
Term: 05/04/06
Qual: Journeyman Plumber

Terry has held his Journeyman plumbers license since 1981. For the past eighteen years he has worked for NorthWestern Energy (formerly Montana Power) in the gas distribution area of the company. Terry is currently the gas service foreman for the company.

Tim Regan
P.O. Box 1164
Miles City, MT 59301
HPH: 232-4833
BPH: 232-3788

Appt: 01/08/03
Term: 05/04/06
Qual: Master Plumber

Tim earned his degree in Environmental Systems and Design in 1980. Since that time he has been employed full time and is co-owner of the family business, Reagan Plumbing, Heating, Cooling & Refrigeration. Tim has been a master plumber for over 20 years and currently holds licenses for medical gas and low-pressure boilers.

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Board of Private Security Patrol Officers

MCA 2-15-1891

Manx Skillicorn
2120 S. Reserve St., PMB 371
Missoula, MT 59801
HPH: 677-3298
BPH: 542-3880

Appt: 08/09/01
Term: 08/01/04
Qual: Represents a contract security company

Manx has been involved in the security business starting in 1990 with Champion International Corporation based in Missoula. In 1994 he became Vice President of Argus Services, Inc. in Missoula and administers the day-to-day operations of the business.

Don Vegge
4403 Harvest Lane
Billings, MT 59106
HPH: 656-8445
BPH: 656-9500

Appt: 08/09/01
Term: 08/01/04
Qual: Represents a proprietary security organization

Don is a retired police officer and a licensed canine handler trained in searching for narcotics, alcohol and firearms. He is currently the security director of the Rimrock Mall with a staff of seven full-time security officers.

Ray Murray, Ph.D
106 Ironwood Place
Missoula, MT 59803
HPH: 549-7901
BPH: 549-7901

Appt: 07/30/02
Term: 08/01/05
Qual: Representative of POST

Dr. Murray received his PH.D. in Geology in 1955 from the University of Wisconsin and has been a forensic geologist since 1973. He is affiliated with the University of Montana as a Professor of Geology and was one of the administrative deans for several years. He has been involved with the City of Missoula's Police Commission and is currently the Chairman of the Commission. Dr. Murray is an active member of the Peace Officers Standards and Training Council.

Kathy Miller
1822 Cannon St.
Helena, MT 59601
HPH: 443-2855
BPH: 443-2855

Appt: 07/30/02
Term: 08/01/05
Qual: Public Member

Kathy is a retired teacher who taught for 33 years in Dillon, Hamilton, Corvallis and Helena. During her working career, she was employed by a retail credit company in Butte investigating people applying for credit.

**Board of Professional Engineers
and Land Surveyors**

MCA 2-15-1873

Jake Neil
P.O. Box 6350
Great Falls, MT 59405
HPH: 727-2518
BPH: 453-5478

Appt: 08/09/01
Term: 07/01/05
Qual: Professional Engineer

Jake holds a Civil Engineering degree from Montana State University. He has owned and operated his own environmental engineering consulting business, Neil Consultants, Inc., since 1985. His company is the successor of

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Wenzel & Company, Montana's second oldest engineering firm and has branch offices in Helena, Kalispell and Phoenix, Arizona.

Daniel McCauley	Appt: 08/09/01
P. O. Box 4817	Term: 07/01/05
Helena MT 59604	Qual: Professional Engineer
HPH: 442-5212	
BPH: 449-8627	

Dan the branch manager of Entranco, Inc. of Helena. He graduated from MSU in 1980 with a B.S. with Honors in Civil Engineering and has been a licensed professional engineer since 1985. He is a member of the National Society of Professional Engineers and is a past president of the State Chapter, as well as a member of the American Society of Civil Engineers.

Steve Wright	Appt: 07/05/02
P. O. Box 2988	Term: 07/01/06
Columbia Falls MT 59912	Qual: Professional Engineer
HPH: 892-2813	
BPH: 892-3261	

Steve has been a licensed professional engineer in Montana since 1981 and has been the Environmental Manager at the Columbia Falls Aluminum Company since 1996.

Janet Markle	Appt: 07/05/02
724 6th Avenue N	Term: 07/01/06
Glasgow MT 59230	Qual: Public Member
HPH: 228-2602	
BPH: 228-2602	

Janet recently retired from her antique store in Glasgow where she was responsible for all aspects of the business, including buying, selling, trading, cleaning and decorating. She received a B.A. in Liberal Arts from the U of M and is very active in the Glasgow community.

Denis Applebury	Appt: 07/05/02
914 Hwy. 93	Term: 07/01/06
Victor, MT 59875	Qual: Professional Surveyor
HPH: 961-3267	
BPH: 961-3267	

Denis received his Professional Land Surveyors license in 1972. He worked for various survey companies in the early stages of his career, and for the past 27 years has owned and operated his own surveying business.

Board of Psychologists **MCA 2-15-1851**

Dr. Jay Palmatier	Appt: 09/17/01
10633 Oral Zumwalt Way	Term: 09/01/06
Missoula, MT 59803	Qual: Public Health Psychologist
HPH: 273-0090	
BPH: 532-9700	

Dr. Palmatier has been licensed to practice psychology in Montana since 1984. In 1982 he became the Clinical Director of the Western Montana Mental Health Center and is currently a member of the Crisis Response Team at the Center. Dr. Palmatier performs evaluations for psychiatric hospitalizations at local emergency room, jail, mental health center facilities and consumer homes.

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Dr. George Watson
895 Technology Blvd. Suite 201
Bozeman, MT 59718
HPH: 585-5646
BPH: 585-5646

Appt: 02/14/02
Term: 09/01/04
Qual: Psychologist in private practice

Dr. Watson has been licensed as a psychologist in Montana since 1997 and as a Licensed Clinical Professional Counselor since 1996. His practice in Bozeman is in both clinical and organizational psychology with emphasis on individual and marital therapy, substance abuse, depression, anxiety and clinical hypnosis. Dr. Watson has also established a practice in Organization-Business Psychology and Executive Coaching, working with law enforcement and local businesses.

Pat Colberg
1819 S. Mariposa Lane
Billings, MT 59102
HPH: 248-1240
BPH: 248-1240

Appt: 10/15/02
Term: 09/01/07
Qual: Public Member

Pat is a graduate of the University of Montana with a degree in Business Administration. She has been retired after working for fifteen years in the private sector. Pat is past president of the Junior League in Billings and is very involved in the community.

Board of Public Accountants

MCA 2-15-1866

Gary Kasper
P.O. Box 308
Fairfield, MT 59436
HPH: 467-2309
BPH: 467-2410

Appt: 07/16/01
Term: 07/01/06
Qual: Licensed Public Accountant

Gary is a Licensed Public Accountant enrolled to practice before the Internal Revenue Service. Mr. Kasper has owned and operated Gary Kasper & Company, Inc. for the past 15 years.

Kathleen Burch
P.O. Box 232
Lakeside, MT 59922
HPH: 752-3367
BPH: 752-7122

Appt: 07/05/02
Term: 07/01/07
Qual: Public Member

Kathy received her law degree from the Indiana University School of Law from Indianapolis, Indiana, and affiliated with Henning & Keedy law firm in April, 2001. Her general litigation experience involves both plaintiff and defense work in the areas of personal injury, insurance defense and commercial litigation.

Michael Johns
212 Missoula Ave.
Deer Lodge, MT 59722
HPH: 693-2337
BPH: 846-3733

Appt: 12/09/02
Term: 07/01/05
Qual: Certified Public Accountant

Michael graduated from the University of Montana with a degree in Business Administration with accounting emphasis. He has been with Newland and Company for 21 years as a shareholder/Director. His CPA practice includes individual and entity tax and consulting services.

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Board of Public Education

MCA 2-15-1508

Kirk J. Miller
P. O. Box 134
Havre, MT 59501
HPH: 265-4456
BPH: 265-4356

Appt: 02/01/02
Term: 02/01/09
Qual: Republican/representative of Dist. 3

Dr. Miller has been the Superintendent of Havre Public School District since 1996. He is also an adjunct faculty member in the Department of Educational Leadership at Montana State University in Bozeman, serving as University Supervisor for the Administrative Internship/Practicum program. Dr. Miller was elected Chairman of the Board of Public Education in 1999 and continues to serve in that role.

Storrs Bishop
P.O. Box 667
Ennis, MT 59729
HPH: 682-4641
BPH: 682-4201

Appt: 02/01/03
Term: 02/01/10
Qual: Republican from District 2

Storrs is a rancher, outfitter, and a realtor. He was actively involved in the Ennis School Board for 5 years, past president of the Montana School Boards Association and has served as Chairman of the Board of Public Education for 4 years.

Board of Radiologic Technologists

MCA 2-15-1848

Dr. Dennis Palmer
P.O. Box 4819
Helena, MT 59604
HPH: 442-4001
BPH: 444-2305

Appt: 07/29/02
Term: 07/01/05
Qual: Radiologist

Dr. Palmer graduated from the University of New Mexico School of Medicine in 1979. He became a Board Certified Radiologist in 1983 and has been affiliated with St. Peter's Hospital in Helena since 1990.

William "Bim" Lindsey
3311 N. Hallmark Ln.
Missoula, MT 59801
HPH: 728-1584
BPH: 721-5600

Appt: 08/21/01
Term: 07/01/04
Qual: Radiologic Technologist

"Bim" is the Radiology Manager at the Western Montana Clinic in Missoula. He has worked in hospitals both as a staff radiologic technologist and department manager and has also worked as staff and manager in cardiac catheterization labs using ionizing radiation on patients for diagnostic purposes.

Jackie Barnes
932 Aspen
Helena, MT 59601
HPH: 933-8816
BPH: 443-5510

Appt: 07/29/02
Term: 07/01/05
Qual: Permit holder

Jackie has held a limited permit x-ray technician's license since 1997. She works at Advance Spinal Fitness in Helena.

Carole Erickson
7102 Siesta Dr.

Appt: 07/29/02
Term: 07/01/05

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Missoula, MT 59801
HPH: 549-5979
BPH: 329-5668

Qual: Public Member

Carole has been a health care administrator for over 40 years with a special emphasis in the area of patient and family advocacy. She is currently the Administrative Director for The International Heart Institute of Montana Foundation in Missoula.

John Rosenbaum
P.O. Box 1231
Havre, MT 59501
HPH: 265-5009
BPH: 262-1221

Appt: 07/29/02
Term: 07/01/05
Qual: Radiologic Technologist

John has been associated with the Northern Montana Hospital since 1981. He is currently the Vice President of Professional Services and manager of the x-ray department.

Dr. John Hanson
4608 Palisades Park
Billings, MT 59106
HPH: 652-5966
BPH: 237-4340

Appt: 11/26/02
Term: 07/01/05
Qual: Dr. who employs a
radiologic technologist

Dr. Hanson received his residency in radiology training through Walter Reed Army Medical Center in Washington DC beginning in 1976. He was Chief Resident of the Center in 1979. He holds certification through the American Board of Radiology and received the American Medical Association Physician Recognition award. He is currently the Medical Advisor, School of Radiology at St. Vincent Hospital in Billings.

Board of Real Estate Appraisers

MCA 2-15-1868

Tim Moore
P.O. Box 9064
Helena, MT 59604
HPH: 442-6180
BPH: Same

Appt: 05/18/01
Term: 05/01/04
Qual: Real Estate Appraiser

Tim has been a real estate appraiser in the Helena area since 1987. His primary focus is doing residential appraising, particularly new construction. He holds an IFAS designation which is a senior designation of the National Association of Independent Fee Appraisers Association. Tim was appointed to the Jefferson County planning board, serving as chairman for two years when the Jefferson County Comprehensive Plan was finalized.

Jennifer Seitz
3227 Lynn Ave.
Billings, MT 59102
HPH: 237-0105
BPH: 656-6844

Appt: 05/18/01
Term: 05/01/04
Qual: Public Member

Jennifer has worked for Intermountain Mortgage Co., Inc as an underwriter/processor since 1996. Her job duties include all phases of underwriting, processing and preparing closing documents for FHA, VA and conventional mortgages. She recently completed and passed the Mortgage Bankers Association underwriting course.

Donald Andrews
335 Beaverhead Dr.
Ronan, MT 59864

Appt: 05/01/02
Term: 05/01/05
Qual: Real Estate Appraiser

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HPH: 676-0184
BPH: 676-0184

Don has been the chief appraiser in the Division of Lands for the Confederated Salish and Kootenai Tribe since 1990. He has experience in negotiating contracts with independent appraisers and the review of all appraisals completed on Trust land within the exterior boundaries of the Flathead Reservation.

Keith O'Reilly	Appt: 09/11/01
P.O. Box 11145	Term: 05/01/04
Bozeman, MT 59719	Qual: Real Estate Appraiser
HPH: 587-7742	
BPH: 587-2452	

Keith specializes in the appraisal of residential and commercial properties located in Gallatin County. He has recently completed all of the 500 level classes of the Appraisal Institute and is planning to take the Comprehensive Exam for the MAI designation to add to his general certified appraiser license.

Board of Realty Regulation

MCA 2-15-1867

Vicky Hammond	Appt: 05/10/01
1020 South Ave. West	Term: 05/09/05
Missoula, MT 59801	Qual: Real Estate Broker and Democrat
HPH: 721-0509	
BPH: 721-4141	

Vicky has worked for Gillespie Realty Company in Missoula since she first obtained her real estate license in March of 1985. She has over thirteen years of actively listing and selling real estate, and her involvement as leadership in the Montana Association of Realtors and National Association of Realtors gives her the experience to serve all real estate licensees in Montana.

Terry Hilgendorf	Appt: 05/13/02
3507 Fairway Drive	Term: 05/09/06
Great Falls MT 59401	Qual: Public Member and Republican
HPH: 454-2211	
BPH: 761-8796	

Terry has worked in the title insurance industry for over 22 years and is currently a licensed Montana title insurance agent. He has worked closely with both real estate agents and buyers and sellers and has assisted with closing of many of real estate transactions. He is the Vice President/Manager of First American Title Company in Great Falls and received his B.S. in Business Administration in 1985 from MSU-Eastern.

Board of Regents

MCA 2-15-1508

John Mercer	Appt: 05/17/01
P.O. Box 460	Term: 02/01/08
Polson, MT 59860	Qual: Republican representing District 1
HPH: 883-2638	
BPH: 883-5367	

John has been in private law practice in Polson since 1982 and served in the House of Representatives beginning in 1985 through 2000. He was elected Speaker of the House of Representatives in 1993 and served in this capacity through the 2000 legislative session. John is the recipient of the Distinguished Service Award from the State Bar of Montana and also the Community Service Award from the UM.

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Christian Hur
535 Ave. E
Billings, MT 59102
HPH: 245-3223
BPH: 245-3223

Appt: 05/15/01
Term: 07/01/04
Qual: Student Representative

Christian is a business finance/business economics graduate from Montana State University-Billings and is currently a law student at the U of M. He has served as a U.S. Marine Reservist since November 1998.

Lila Taylor
Box 595
Busby, MT 59016
HPH: 757-2236
BPH: 757-2236

Appt: 02/01/03
Term: 02/01/10
Qual: Republican representing District 4

Lila is a native of Roundup and has a bachelor's degree in agricultural business from Montana State University. She was a state representative for 6 years, serving on the agriculture, taxation and natural resources committees during her three terms. Lila's legislative tenure has given her experience in working with diverse views, a fuller understanding of Montana's tax system, educational needs and the state's financial system.

Board of Sanitarians

MCA 2-15-1861

Ted Kylander
P.O. Box 35033
Billings, MT 59107
HPH: 248-3777
BPH: 256-2770

Appt: 06/08/01
Term: 07/01/04
Qual: Sanitarian

Ted has been a registered sanitarian with the State since 1974 and has been employed with the Yellowstone City-County Health Dept in Billings for over 25 years. He is currently the Program Manager for the Environmental Health Program.

John Shea
280 Mary Avenue
Missoula, MT 59801
HPH: 721-5817
BPH: 721-5817

Appt: 07/03/02
Term: 07/01/05
Qual: Public Member

John is a retired MPC computer consultant. He also served on the Governor's Council on Disabilities and enjoys serving his community and state.

**Board of Speech Language Pathologists
and Audiologists**

MCA 2-15-1849

Julie Fiske
275 Gilbert Lake Rd.
Kalispell, MT 59901
HPH: 755-0019
BPH: 257-2301

Appt: 01/10/02
Term: 12/31/04
Qual: Public Member/Consumer

Mrs. Fiske has been an elementary school teacher since 1989. She has earned degrees in both Elementary and Special Education and is currently teaching at the Helena Flats School in Kalispell. Mrs. Fiske is the mother of a special needs child and uses speech and language services for her child.

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Dr. Darrell Micken
515 Lexington Dr.
Bozeman, MT 59715
HPH: 587-8517
BPH: 586-0914

Appt: 01/10/02
Term: 12/31/04
Qual: Licensed Audiologist

Dr. Micken received his Audiology degree in 1969 from the University of Montana. Upon graduating, he was hired as the University of Montana Speech and Hearing Department's audiological clinic supervisor. He was hired by Montana Easter Seal Society in 1974 to develop a statewide hearing conservation program. In 1980 he and his wife opened their private practice in Bozeman serving patients of all ages.

Marilyn Thaden
1095 Waterline Rd,
Butte, MT 59701
HPH: 494-1400
BPH: 494-1400

Appt: 01/01/03
Term: 12/31/05
Qual: Speech-language pathologist

Marilyn received both her bachelor and master degrees in speech pathology from the University of Minnesota in Minneapolis. She has over thirty years experience as a speech pathologist and is currently employed by St. James Health Care in Butte as a pediatric outreach professional.

Jennifer Hartze
1006 E. Missoula Ave.
Belgrade, MT 59714
HPH: 388-4060
BPH: 586-6667

Appt: 01/01/93
Term: 12/31/05
Qual: Audiologist

Jennifer earned her Master of Science degree in Audiology in 1991 from Idaho State University. She has worked for the Micken Hearing Services since 1992 performing audiological services and hearing aid fitting.

State Banking Board

MCA 2-15-1803

Tim Fox
558 Hillisdale
Helena, MT 59601
HPH: 442-8808
BPH: 449-2265

Appt: 07/16/01
Term: 07/01/04
Qual: Officer of a National Bank

Tim received his Juris Doctorate degree from the University of Montana School of Law in June, 1987 and has been a member of both the American and Montana Bar Association since that time. He is Vice President and Counsel of Mountain West Banks in Helena. Tim is a school board member at Cornerstone Christian Academy and serves on the Governor's Prayer Breakfast Committee.

Jamie Doggett
425 Camas Creek Rd.
White Sulphur Springs, MT 59645
HPH: 547-2190
BPH: 547-2172

Appt: 07/16/01
Term: 07/01/04
Qual: Public Member

Jamie is currently a Meagher County Commissioner. She recently ended her term of 12 years on the Montana Committee for the Humanities, serving as chairman the last three years. In her role as county commissioner, she has

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worked through many problems seeking workable solutions.

Wayne Edwards	Appt: 07/18/02
P.O. Box 1047	Term: 07/01/05
Denton, MT 59430	Qual: Bank Officer of a small bank
HPH: 567-2645	
BPH: 567-2226	

Wayne has been the president of Farmers State Bank in Denton since 1988. He is a member of the American Bankers Association and the Independent Bankers Association. Wayne also has expertise in foreign capital depositories.

Max Agather	Appt: 07/18/02
17 1st Ave. E.	Term: 07/01/05
Kalispell, MT 59901	Qual: Public Member
HPH: 752-7737	
BPH: 752-8693	

Max began his career in the insurance business in 1984. His business, Glacier Financial Strategies and Investment Planning LLC, represents some of the largest insurance groups in the state. He has extensive experience in insurance brokerage and financial planning.

State Compensation Insurance Fund	MCA 2-15-1019
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Derek Grewatz	Appt: 04/27/01
2925 Palmer St., Suite B	Term: 04/28/05
Missoula, MT 59801	Qual: Licensed Insurance Producer
HPH: 251-3532	
BPH: 721-1000	

Derek began his insurance career in 1987 with Kemper Insurance Company in Minneapolis. He has been affiliated with Western States Insurance Company since 1994, currently serving as Vice President and Chief Marketing Officer for the company.

Susan Knedler	Appt: 04/27/01
20 Hanover Rd.	Term: 04/28/05
Lewistown, MT 59457	Qual: Private Industry and Policyholder
HPH: 538-9745	
BPH: 538-7411	

Susan has been associated with Hi-Heat Industries Inc. for 20 years, with the past 17 years as General Manager. As an employer of 48 employees, she has extensive experience with workman's compensation issues.

Herb Leuprecht	Appt: 04/27/01
108 Country Club Lane	Term: 04/28/05
Butte, MT 59701	Qual: Private Industry and Policyholder
HPH: 494-2241	
BPH: 494-3500	

Herb is a partner and general manager of the Best Western War Bonnet Inn in Miles City, the Richland Motor Inn in Sidney, the Lone Tree Inn in Sidney, and the Copper King in Butte. He is also the President and owner of Management Consultants, Inc. in Butte which was developed to provide services to Montana motel/hotel properties including full

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property management, consulting, discounted purchasing, full service accounting and development of record procedures.

Mark Cole	Appt: 07/29/02
P.O. Box 835	Term: 04/28/05
Shelby, MT 59474	Qual: Policyholder and representing
HPH: 434-5724	private enterprise
BPH: 434-5583	

Mark has been involved in all phases of motor carrier management for over twenty-three years. He has served on the Board of Directors of the Montana Motor Carriers Work Comp Purchase Group. Mark jointly manages and oversees the day-to-day operation of over 100 tractor-trailer units operating throughout the United State and four western provinces of Canada.

State Tax Appeal Board

MCA 15-2-101

Michael Mulroney	Appt: 09/12/01
700 Power	Term: 01/01/07
Helena, MT 59601	Qual: Public Member
HPH: 442-6227	
BPH: 442-7450	

Mike was admitted to the Montana Bar in 1962 and served as a federal tax attorney for the Internal Revenue Service for five years. He joined the law firm of Luxan & Murfitt in Helena as a partner and engaged primarily in commercial and business related legal activities.

Gregory Thornquist	Appt: 01/01/03
527 Peosta Ave.	Term: 01/01/09
Helena, MT 59601	Qual: Public Member

Greg was an apprentice appraiser for Rutherford & Associates Appraisals, later opening his own tax consultant business in Billings before accepting the position on the State Tax Appeals Board. Greg has experience working with county tax appeal boards, is familiar with the Department of Revenue's appraisal system, and has been reappointed as the board chair.

Transportation Commission

MCA 2-15-2502

S. Kevin Howlett	Appt: 01/01/03
P.O. Box 153	Term: 01/01/07
Arlee, MT 59821	Qual: Independent from District 1
HPH: 726-3831	
BPH: 745-3525	

Kevin is the department head of Tribal Health and Human Services for the Confederated Salish and Kootenai Tribes in Pablo. He was an elected member of the Tribal Council for 2 years and has dealt with the U.S. Department of Interior, Justice, Environmental Protection, Health and Human Services and the Federal Highway Administration.

Nancy Espy	Appt: 01/01/03
P.O. Box 503	Term: 01/01/07
Broadus, MT 59317	Qual: Republican from District 4
HPH: 436-2588	
BPH: 436-2588	

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Nancy and her husband Jim have ranched in southeastern Montana since 1955. She was appointed Powder River County Commissioner in 1993. In this capacity, Nancy has developed an understanding of the funding and construction policies of the Montana Department of Highways. She and her fellow commissioners have been able to build a working relationship with the road crew and establish better communications with the people in the county.

Board of Veterans' Affairs

MCA 2-15-1205

Donald Bogut
703 Shadow Lane
Kalispell, MT 59901
HPH: 752-1114
BPH: 756-4595

Appt: 05/22/01
Term: 08/01/06
Qual: Veteran

Don is a retired Army Sergeant First Class. He received a Master of Science in Vocational Technical Education in 1975 from MSU Northern in Havre. He is currently the Vocational Education Instructor in Flathead High School in Kalispell. Don's military background, experience and education will make him a very effective board member.

Ray Tindall
428 Milton Road
Billings, MT 59105
HPH: 252-2913
BPH: 252-2913

Appt: 10/29/02
Term: 08/01/07
Qual: Veteran

Ray is a retired Army veteran and is a fifty-year member of the Veterans of Foreign Wars. He is an officeholder in the national VFW on the health care committee. Ray is very involved in all veterans' organizations in the Billings area and a strong veterans' advocate.

Donald Kettner
128 Gresham
Glendive, MT 59330
HPH: 377-2223
BPH: 377-2223

Appt: 12/20/02
Term: 08/01/04
Qual: Veteran

Don is President Emeritus of Dawson Community College in Glendive. He is a Korean War Veteran, having served with the 1st Marine Division in Korea in 1951-52. He is actively involved in veterans affairs as it relates to their personal welfare and to the state.

Board of Veterinary Medicine

MCA 2-15-1852

Dr. Jack Newman
4217 2nd Ave. N.
Great Falls, MT 59401
HPH: 727-0477
BPH: 727-0477

Appt: 07/31/01
Term: 07/31/06
Qual: Licensed Veterinarian

Dr. Newman received his DMV in 1982 from Washington State University. He is the sole owner of Associated Veterinary Services in Great Falls. Dr. Newman is a member of the Montana Veterinary Medical Assoc and is a previous board member of the Montana Thoroughbred Breeders Assoc.

Dr. Jean Allbright
1321 N. 27th St.

Appt: 08/07/02
Term: 07/31/07

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Billings, MT 59101
HPH: 245-4772
BPH: 245-4772

Qual: Licensed Veterinarian

Dr. Allbright received her professional degree in 1974 from Washington State University. She is the owner of Heath Veterinary Hospital in Billings and studies, trains, and practices alternative medicine for animals, such as chiropractic therapy.

Board of Water Well Contractors

MCA 2-15-3307

Pat Byrne
245 Gerber Rd.
Great Falls, MT 59405
HPH: 453-8412
BPH: 727-3381

Appt: 07/01/01
Term: 07/01/04
Qual: Water Well Contractor

Pat's water well drilling service has operated in the Great Falls area for over 37 years and covers a wide array of drilling and pumping services to ranchers, businesses and homeowners. He is currently serving as the Chairman of the Board of Water Well Contractors.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/1/2003

HB 51, introduced by E. Clark
HB 76, introduced by McKenney
HB 121, introduced by E. Clark
HB 122, introduced by Forrester
HB 181, introduced by B. Thomas
HB 296, introduced by Jent
HB 311, introduced by Stoker
HB 317, introduced by Shockley
HB 338, introduced by Keane

MOTIONS

SB 72 - Senator Cobb moved **SB 72** be taken from the committee on Public Health, Welfare and Safety and rereferred to the committee on Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 319, introduced by Hansen, referred to Highways and Transportation.
SB 320, introduced by Tester, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 18, introduced by Shockley (by request of the Supreme Court), referred to Judiciary.
HB 40, introduced by Newman (by request of the Department of Justice), referred to Judiciary.
HB 47, introduced by P. Clark, referred to Agriculture, Livestock and Irrigation.

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HB 51, introduced by E. Clark (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
HB 66, introduced by Harris (by request of the Department of Justice), referred to Judiciary.
HB 76, introduced by McKenney (by request of the Department of Commerce), referred to Business and Labor.
HB 121, introduced by E. Clark (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
HB 122, introduced by Forrester (by request of the Department of Justice), referred to Business and Labor.
HB 130, introduced by Lewis (by request of the State Auditor), referred to Business and Labor.
HB 166, introduced by Wanzenried (by request of the Law and Justice Interim Committee), referred to Judiciary.
HB 181, introduced by B. Thomas, referred to Agriculture, Livestock and Irrigation.
HB 199, introduced by Harris (by request of the Department of Justice), referred to Judiciary.
HB 215, introduced by Brueggeman (by request of the Department of Justice), referred to Judiciary.
HB 224, introduced by Shockley (by request of the Supreme Court), referred to Judiciary.
HB 256, introduced by Shockley, referred to Judiciary.
HB 296, introduced by Jent, referred to Business and Labor.
HB 311, introduced by Stoker, referred to Agriculture, Livestock and Irrigation.
HB 317, introduced by Shockley, referred to Judiciary.
HB 338, introduced by Keane, Cohenour, Cyr, Laslovich, Musgrove, Newman, Wanzenried, Wilson, referred to Business and Labor.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 28 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Ryan, Toole.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 79, requiring 2/3 of entire Legislature passed as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Black, Butcher, Cobb, Elliott, Stapleton, Tester.

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Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 151 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 197 passed as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Black, Johnson.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 211 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 229 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 230 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SR 2 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

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Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 31 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Cobb, Elliott, Nelson, Ryan.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 58 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Johnson.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 62 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Curtiss.

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Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 70 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 83 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 153 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 309 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Shea excused at this time.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Stapleton moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 101 - Senator Mahlum moved **SB 101** do pass. Motion carried with Senators Elliott, Esp and Keenan voting nay.

SB 222 - Senator Bohlinger moved **SB 222** do pass. Motion carried as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Wheat.

Total 35

Nays: Bales, Barkus, Cooney, Cromley, Curtiss, Esp, McGee, Nelson, Schmidt, Stonington, Toole, Tropila, Zook, Mr. President.

Total 14

Absent or not voting: None.

Total 0

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Excused: Shea.
Total 1

HB 16 - Senator Bales moved **HB 16** be concurred in. Motion carried unanimously.

HB 25 - Senator Squires moved **HB 25** be concurred in. Motion carried with Senators Butcher and O'Neil voting nay.

HB 34 - Senator Sprague moved **HB 34** be concurred in. Motion carried with Senator O'Neil voting nay.

HB 38 - Senator Gebhardt moved **HB 38** be concurred in. Motion carried unanimously.

HB 39 - Senator Wheat moved **HB 39** be concurred in. Motion carried unanimously.

Senator Sprague excused at this time.

HB 46, requiring 2/3 of each House - Senator Johnson moved **HB 46** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Shea, Sprague.
Total 2

HB 48 - Senator Wheat moved **HB 48** be concurred in. Motion carried with Senators Butcher, Cromley and O'Neil voting nay.

Senator Sprague present at this time.

SB 68 - Senator Cooney moved **SB 68** do pass. Motion carried unanimously.

HB 69 - Senator Nelson moved **HB 69** be concurred in. Motion carried unanimously.

HB 78 - Senator Black moved **HB 78** be concurred in. Motion carried unanimously.

HB 84 - Senator McGee moved **HB 84** be concurred in. Motion carried unanimously.

HB 106 - Senator Ellingson moved **HB 106** be concurred in. Motion carried unanimously.

HB 132 - Senator Hansen moved **HB 132** be concurred in. Motion carried unanimously.

HB 162 - Senator Schmidt moved **HB 162** be concurred in. Motion carried with Senator Gebhardt voting nay.

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Senator Stapleton moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Story moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 25 - Senator Grimes moved **SB 25** be taken from second reading and rereferred to the committee of Judiciary. Motion carried.

HB 309 - Senator Harrington moved he be allowed to change his vote on **HB 309**, third reading this day, from yea to nay. Motion carried.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Grimes, Chairman):

2/3/2003

SB 274, do pass. Report adopted.

HB 53, be concurred in. Report adopted.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, February 4, 2003. Motion carried.

Senate adjourned at 2:40 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
February 4, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Esp, Shea and Toole, excused. Quorum present.

The presiding officer has authenticated the daily journal for the twenty-third legislative day.

Senator Toole present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 319, SB 320.**

Signed by the President at 12:30 p.m., February 4, 2003: **SR 2.**

Signed by the Secretary of the Senate at 12:45 p.m., February 4, 2003: **SR 2.**

Examined by the sponsor and found to be correct: **SR 2.**

Delivered to the Secretary of State at 3:25 p.m., February 4, 2003: **SR 2.**

Correctly enrolled: **SB 258, SR 2.**

Examined by the sponsor and found to be correct: **SB 258.**

Signed by the Speaker at 3:10 p.m., February 4, 2003: **SB 258.**

Signed by the President at 3:00 p.m., February 4, 2003: **SB 258.**

Signed by the Secretary of the Senate at 3:00 p.m., February 4, 2003: **SB 258.**

Delivered to the Governor for approval at 3:17 p.m., February 4, 2003: **SB 258.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):

2/3/2003

HB 128, be concurred in. Report adopted.

BUSINESS AND LABOR (Mahlum, Chairman):

2/4/2003

SB 231, do pass. Report adopted.

SB 232, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "AND"

2. Title, page 1, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 2, line 13.

Following: line 12

Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

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EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):
SB 120, introduced bill, be amended as follows:

2/4/2003

1. Title, line 10.

Following: "EFFECTIVE DATE"

Insert: ", "

Strike: "AND"

Following: "APPLICABILITY DATE"

Insert: ", AND A TERMINATION DATE"

2. Page 1, line 17.

Following: "personnel."

Insert: "(1)"

3. Page 1, line 25.

Following: "parties."

Insert: "(2) (a) A teacher, specialist, or superintendent who is employed by a school district through a contract with a private entity must:

(i) have at least 10 years of creditable service; and

(ii) have terminated active membership in the teachers' retirement system in accordance with the provisions of 19-20-304(1).

(b) No more than 100 persons may contract for employment under the provisions of this section at any one time."

4. Page 10.

Following: line 20

Insert: "NEW SECTION. Section 8. Termination. [This act] terminates June 30, 2007."

And, as amended, do pass. Report adopted.

HB 23, be concurred in. Report adopted.

FISH AND GAME (Sprague, Chairman):
SJR 4, introduced joint resolution, be amended as follows:

1/30/2003

1. Page 1, line 24 through line 25.

Following: "2000"

Strike: "and" on line 24 through "for" on line 25

Insert: ", 2001, and"

And, as amended, be adopted. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):
SB 54, introduced bill, be amended as follows:

2/4/2003

1. Title, page 1, line 5.

Strike: "REMOVING"

Insert: "TRANSFERRING FROM THE GOVERNOR TO THE BOARD OF EXAMINERS"

Strike: "OF THE GOVERNOR"

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2. Title, page 1, line 6.

Following: "PRACTICES;"

Insert: "CLARIFYING THAT THE COMMISSIONER OF POLITICAL PRACTICES IS SUBJECT TO RECALL;"

3. Page 1, line 14.

Following: "~~(t)~~"

Insert: "(1)"

4. Page 1, line 22.

Insert: "(2) Prior to expiration of the term, the individual selected to serve as commissioner of political practices may be removed by the board of examiners, established in 2-15-1007, after informal proceedings pursuant to 2-4-604, if the board finds the commissioner to be incompetent, to have engaged in malfeasance, or to have neglected the commissioner's duties. The commissioner may request judicial review of the board's action. The commissioner is also subject to recall, pursuant to Title 2, chapter 16, part 6."

5. Page 2, line 14.

Following: "appointment"

Strike: ","

Insert: ". If a public officer or public employee is nominated, the person shall resign from the previous position prior to appointment."

6. Page 2, line 28.

Following: "not"

Insert: "purposely or knowingly"

7. Page 2, line 30.

Following: "any"

Strike: "activity"

Insert: "activities primarily intended"

8. Page 3, line 2.

Following: "(3)"

Strike: "purposely or knowingly"

And, as amended, do pass. Report adopted.

SB 252, do pass. Report adopted.

SB 262, introduced bill, be amended as follows:

1. Page 3, line 7.

Following: "followed"

Insert: "within 5 days"

And, as amended, do pass. Report adopted.

HB 35, be concurred in. Report adopted.

HB 44, be concurred in. Report adopted.

HB 167, be concurred in. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/3/2003

HB 14, introduced by Shockley
HB 20, introduced by Golie
HB 30, introduced by Hurwitz
HB 32, introduced by Golie
HB 71, introduced by Waitschies
HB 80, introduced by Jackson
HB 87, introduced by Jent
HB 114, introduced by Jent
HB 115, introduced by Bookout-Reinicke
HB 135, introduced by Andersen
HB 137, introduced by Lange
HB 143, introduced by Lambert
HB 154, introduced by Lenhart
HB 155, introduced by Jent
HB 195, introduced by Younkin
HB 213, introduced by Gallik
HB 237, introduced by Brueggeman
HB 240, introduced by Shockley
HB 250, introduced by Morgan
HB 259, introduced by Maedje
HB 266, introduced by Jacobson

Senate bill concurred in and returned to the Senate:

2/4/2003

SB 258, introduced by F. Thomas

MOTIONS

SB 226 - Senator DePratu moved to pass consideration of **SB 226** on second reading this legislative day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 321, introduced by Laible, referred to Natural Resources.
SB 322, introduced by Ellingson, Facey, referred to Judiciary.
SB 323, introduced by Grimes, referred to Education and Cultural Resources.
SB 324, introduced by Cocchiarella, referred to Business and Labor.
SB 325, introduced by McGee, referred to Local Government.
SB 326, introduced by McGee, referred to Local Government.
SB 327, introduced by Taylor, Johnson, Keenan, F. Thomas, referred to Energy and Telecommunications.

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The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 12, introduced by Mahlum, referred to Natural Resources.

The following House bills were introduced, read first time, and referred to committees:

HB 14, introduced by Shockley, referred to Judiciary.

HB 20, introduced by Golie, referred to Fish and Game.

HB 30, introduced by Hurwitz (by request of the Department of Transportation), referred to Highways and Transportation.

HB 32, introduced by Golie, referred to Fish and Game.

HB 71, introduced by Waitschies (by request of the Department of Transportation), referred to Highways and Transportation.

HB 80, introduced by Jackson, referred to Highways and Transportation.

HB 87, introduced by Jent (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

HB 114, introduced by Jent, Toole (by request of the Capitol Complex Advisory Council), referred to State Administration.

HB 115, introduced by Bookout-Reinicke (by request of the Department of Military Affairs), referred to State Administration.

HB 135, introduced by Andersen, referred to Education and Cultural Resources.

HB 137, introduced by Lange (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 143, introduced by Lambert (by request of the Public Employees' Retirement Board), referred to State Administration.

HB 154, introduced by Lenhart (by request of the Teachers' Retirement Board), referred to Education and Cultural Resources.

HB 155, introduced by Jent (by request of the State Administration and Veterans' Affairs Interim Committee), referred to Judiciary.

HB 195, introduced by Younkin (by request of the Department of Transportation), referred to Judiciary.

HB 213, introduced by Gallik (by request of the Public Employees' Retirement Board), referred to State Administration.

HB 237, introduced by Brueggeman, Wanzenried, referred to Highways and Transportation.

HB 240, introduced by Shockley, referred to Judiciary.

HB 250, introduced by Morgan, referred to Highways and Transportation.

HB 259, introduced by Maedje, referred to Highways and Transportation.

HB 266, introduced by Jacobson, Gallus, Galvin-Halcro, Glaser, Golie, Laslovich, Parker, B. Ryan, Story, Wilson, referred to Energy and Telecommunications.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator DePratu in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 65 - Senator Roush moved **SB 65** do pass. Motion carried unanimously.

SB 121 - Senator Glaser moved **SB 121** do pass. Motion carried unanimously.

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SB 238 - Senator Mangan moved **SB 238** do pass. Motion carried unanimously.

The Senate stood at ease.

SPECIAL ORDERS OF THE DAY

Members of the Carroll College Fighting Saints football team and their coaches were introduced to the Senate and Senator Cooney read the following Declaration honoring the Fighting Saints and their coaches.

A PROCLAMATION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA

WHEREAS, the Carroll College Fighting Saints football team are the 2002 National Champions, beating the Georgetown, Kentucky Tigers by a score of 28-7 in the national championship game; and

WHEREAS, the Saints amassed a season record of 12-2 including wins over Dickenson State, Southern Oregon, and Sioux Falls; and

WHEREAS, the team included 3 NAIA national All-American Scholar Athletes, 4 recipients of NAIA All-American honors and a national Offensive Player of the Week; and

WHEREAS, Carroll College was recognized in 2002 by the NAIA as a Champion of Character institution emphasizing the five core values of respect, integrity, responsibility, leadership and sportsmanship; and

WHEREAS, 22 players received Academic All-Conference honors; and

WHEREAS, Coach Mike Van Diest was recognized by Don Hansen's Weekly Football Gazette as National Coach of the Year.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA: that the congratulations of all Montanans be extended to the Carroll College Fighting Saints for their hard work and commitment to their sport and their school.

Senator Bob Keenan
President of the Senate

Representative Doug Mood
Speaker of the House

Senate resumed.

SB 274 - Senator Cocchiarella moved **SB 274**, second reading copy, be amended as follows :

1. Page 1, line 12.

Following: "privacy"

Insert: ", except for a woman's right of individual privacy,"

2. Page 1, line 22.

Following: "FOR"

Insert: "allowing infringement of a woman's individual privacy right by"

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3. Page 1, line 23.

Following: "AGAINST"

Insert: "allowing infringement of a woman's individual privacy right by"

Amendment **not** adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Toole, Wheat.

Total 19

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 29

Absent or not voting: None.

Total 0

Excused: Esp, Shea.

Total 2

SB 274, requiring 2/3 of entire Legislature - Senator McGee moved **SB 274** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 27

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Wheat.

Total 21

Absent or not voting: None.

Total 0

Excused: Esp, Shea.

Total 2

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman DePratu moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 28

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Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Wheat.

Total 20

Absent or not voting: None.

Total 0

Excused: Esp, Shea.

Total 2

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 101 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Cooney, Elliott.

Total 2

Absent or not voting: None.

Total 0

Excused: Esp, Shea.

Total 2

SB 222 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Wheat, Zook, Mr. President.

Total 40

Nays: Bales, Cooney, Cromley, Curtiss, Nelson, Schmidt, Toole, Tropila.

Total 8

Absent or not voting: None.

Total 0

Excused: Esp, Shea.

Total 2

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HB 16 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 25 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Butcher, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 34 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

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Excused: Esp, Shea.
Total 2

HB 38 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 39 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 46, requiring 2/3 of each House, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Stapleton.
Total 1

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Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 48 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Bales, Butcher, Cromley, O'Neil.
Total 4

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 68 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 45

Nays: McGee, Stapleton, Mr. President.
Total 3

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 69 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 78 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 84 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 106, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum,

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Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 132 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

HB 162 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Elliott, Gebhardt.
Total 2

Absent or not voting: None.
Total 0

Excused: Esp, Shea.
Total 2

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ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, February 5, 2003. Motion carried.

Senate adjourned at 3:08 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
February 5, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Cromley, Ellingson, Elliott, Grimes, McGee, Pease and Toole, excused. Quorum present.

The presiding officer has authenticated the daily journal for the twenty-fourth legislative day.

Senator Cromley present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 321, SB 322, SB 323, SB 324, SB 325, SB 326, SB 327, SJR 12.**

Correctly engrossed: **SB 54, SB 120, SB 232, SB 262.**

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/5/2003

SB 220, introduced bill, be amended as follows:

1. Page 1, line 15.

Strike: "and"

Following: "~~Wibaux~~"

Insert: ", and Wibaux"

2. Page 1, line 16.

Strike: "Musselshell,"

3. Page 1, line 17.

Strike: "Wibaux,"

4. Page 1, line 21.

Strike: "Lake"

Insert: "Lincoln"

5. Page 1, line 19.

Following: "~~Teton,~~"

Insert: "Musselshell,"

6. Page 1, line 23.

Following: "Glacier,"

Insert: "Lake,"

Following: "Clark,"

Strike: "Lincoln,"

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And, as amended, do pass. Report adopted.

FISH AND GAME (Sprague, Chairman):
SB 122, introduced bill, be amended as follows:

2/5/2003

1. Title, line 7.

Strike: "OR"

Insert: ", "

Following: "A-7"

Insert: ", OR CLASS B-10"

2. Title, line 8.

Strike: "A-8,"

Insert: "A-9 RESIDENT"

3. Title, line 9.

Following: "TAG"

Insert: "AND A CLASS B-12 NONRESIDENT ANTLERLESS ELK B TAG"

4. Title, line 11.

Following: "87-2-501,"

Insert: "87-2-505,"

5. Page 1, line 28.

Strike: "A-8,"

Insert: "A-9, resident"

Following: "licenses"

Insert: "and Class B-12 nonresident antlerless elk B tag licenses"

6. Page 1, line 29.

Strike: "Class A-8 license."

Insert: "Class A-9 license. An applicant must have a Class B-10 license to be eligible for a Class B-12 license."

7. Page 1, line 30.

Strike: "A-8"

Insert: "A-9 and Class B-12"

8. Page 2, line 1.

Strike: "license"

Insert: "licenses"

9. Page 2, line 6.

Strike: "A-8"

Insert: "A-9"

10. Page 2, line 19.

Strike: "A-8,"

Insert: "A-9, resident"

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11. Page 3.

Following: line 6

Insert: "Section 3. Section 87-2-505, MCA, is amended to read:

"87-2-505. (Temporary) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission.

(3) A holder of a Class B-10 nonresident big game combination license may apply for a Class B-12 nonresident antlerless elk B tag license when authorized by the commission pursuant to 87-2-104. The fee for a Class B-12 license is \$270. The license entitles the holder to hunt in the hunting district or portion of a hunting district and under the terms and conditions specified by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission.

(3) A holder of a Class B-10 nonresident big game combination license may apply for a Class B-12 nonresident antlerless elk B tag license when authorized by the commission pursuant to 87-2-104. The fee for a Class B-12 license is \$270. The license entitles the holder to hunt in the hunting district or portion of a hunting district and under the terms and conditions determined by the commission."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 166, introduced bill, be amended as follows:

1. Title, line 11.

Strike: "ELIMINATING" through "PROGRAM"

Insert: "EXTENDING THE PADDLEFISH ROE DONATION PROGRAM UNTIL JUNE 30, 2018"

2. Page 2, line 3.

Strike: "A"

Insert: "Until June 30, 2018, a"

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3. Page 2, line 18 through line 19.

Strike: "Twenty-five"

Insert: "Thirty"

4. Page 2, line 24 through line 25.

Strike: "Seventy-five"

Insert: "Seventy"

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

2/4/2003

SB 263, introduced bill, be amended as follows:

1. Page 1, line 25.

Following: line 24

Insert: "NEW SECTION. Section 1. Purpose. (1) The purpose of [section 2] is to codify an exception to the hearsay rule for a statement from a child who was a victim of a sexual or violent crime or a witness to a sexual or violent crime. The child may be available or unavailable for the criminal hearing. The legislature has the authority to enact exceptions to the hearsay rule under Rule 802 of the Montana Rules of Evidence. The legislature also has the authority to enact laws to protect Montana's children.

(2) [Section 2] requires notice, a hearing, and a ruling from the court before a child's statement is admitted into evidence. These mandatory procedures protect the defendant's confrontation rights in a criminal proceeding.

(3) The state of Montana has an interest in protecting the welfare of children generally and in protecting the well-being of children who are victimized by and who witness violent and sexual crimes. The state of Montana also has an interest in giving child victims and witnesses a voice in criminal proceedings. [Section 2] protects children from having to appear in criminal proceedings when their testimony is unnecessary under [section 2]."

Renumber: subsequent sections

2. Page 2, line 13.

Following: "made,"

Insert: "whether any videotapes and recordings of any interviews of the child are in the possession or subject to the control of the party intending to offer the child hearsay testimony,"

3. Page 3, line 24.

Strike: "[Section 1] is"

Insert: "[Sections 1 and 2] are"

4. Page 3, line 25.

Strike: "[section 1]"

Insert: "[sections 1 and 2]"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

2/5/2003

SB 284, introduced bill, be amended as follows:

1. Title, line 4.

Following: "ACT"

Insert: "REVISING THE PROCEDURE A COUNTY AUDITOR IS REQUIRED TO FOLLOW TO PROCESS A

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CLAIM; ESTABLISHING TIMEFRAMES WITHIN WHICH INVESTIGATION OF CERTAIN CLAIMS MUST BE COMPLETED; PROVIDING TIMEFRAMES AND PROCEDURES FOR DISAPPROVING A CLAIM;"

2. Page 1, line 16 through line 20.

Strike: "The" on line 16 through "purpose." on line 20

Insert: "(2) (a) Within 30 days of receipt of a claim in the office of the county auditor, the county auditor shall approve the claim, disapprove the claim, or notify the board of county commissioners, the claimant, and any affected county elected officials or department heads in writing that the claim requires further investigation.

(b) Further investigation of a claim must be completed and an approval or disapproval of payment of the claim must be issued within 60 days from the date that the county auditor provides the written notification required in subsection (2)(a).

(3) (a) The county auditor shall report approved claims to the board of county commissioners at its regular meeting after investigations into the claims have been completed.

(b) The county auditor shall keep a complete record of all claims submitted and investigations and examinations of the claims

Renumber: subsequent subsection

3. Page 1, line 29.

Strike: "a" through "by"

Following: "auditor"

Strike: " , "

Insert: "disapproves payment of a claim:

(i) the auditor shall, within 5 days of the disapproval, provide written documentation to the board of county commissioners, the claimant, and any affected county elected officials or department heads specifying the reasons for the disapproval;

(ii) the auditor shall, within 15 days of the disapproval, present documentation and testimony in support of the disapproval of the claim to the board of county commissioners in a public hearing at a properly noticed and regularly scheduled meeting of the board of county commissioners; and

(iii)"

And, as amended, do pass. Report adopted.

HB 232, be concurred in. Report adopted.

2/4/2003

NATURAL RESOURCES (Tash, Chairman):

2/4/2003

SB 130, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "FOR"

Strike: "A LICENSING"

Insert: "AN"

2. Title, page 1, line 8 through line 10.

Strike: "FOR THE RECREATIONAL" on line 8 through "TRAPPING PURPOSES" on line 10

Insert: "TO COMPENSATE STATE TRUST LAND BENEFICIARIES FOR THE USE AND IMPACTS ASSOCIATED WITH HUNTING, FISHING, AND TRAPPING ON LEGALLY ACCESSIBLE STATE TRUST LANDS AS DEFINED IN DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION RULES"

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3. Title, page 1, line 11.

Following: "THAT"

Strike: "15"

Insert: "10"

Following: "RESULT OF"

Strike: "A RECREATIONAL" on line 11 through "LICENSING" on line 12

Insert: "THE"

4. Title, page 1, line 13.

Strike: "85"

Insert: "90"

Strike: "INSTITUTIONAL"

5. Title, page 1, line 14.

Following: "PROVIDING THAT"

Strike: "A LICENSING"

Insert: "AN"

6. Title, page 1, line 16.

Strike: "LICENSING AGREEMENT RATES"

Insert: "FEES FOR HUNTING, FISHING, AND TRAPPING PURPOSES PURSUANT TO AN AGREEMENT
BETWEEN THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE
DEPARTMENT OF FISH, WILDLIFE, AND PARKS"

7. Title, page 1, line 20.

Following: "LAND"

Insert: "FOR HUNTING, FISHING, AND TRAPPING PURPOSES"

Strike: "A RECREATIONAL USE LICENSING"

Insert: "AN"

8. Title, page 1, line 21 through line 22.

Strike: "AND OTHER COMPENSATION" on line 21 through "TRAPPING" on line 22

9. Title, page 1, line 23.

Following: "RESULT OF"

Strike: "A RECREATIONAL USE LICENSING"

Insert: "AN"

10. Title, page 1, line 24 through line 25.

Strike: "PROVIDING" on line 24 through "AGREEMENT;" on line 25

11. Title, page 1, line 26.

Following: "ADDING"

Strike: "ACQUISITION OF ACCESS AND"

12. Title, page 1, line 29.

Strike: "\$1.25"

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Insert: "\$2"

Strike: "77-1-804,"

13. Page 2, line 10.

Following: "into"

Strike: "a licensing"

Insert: "an"

14. Page 2, lines 10 and 11.

Following: "agreement"

Strike: "on behalf of the public"

Insert: "to compensate state trust land beneficiaries"

Following: "for the"

Strike: "recreational uses of school" on line 10 through "trust land for" on line 11

Insert: "use and impacts associated with"

15. Page 2, line 11.

Following: "trapping"

Insert: "on legally accessible state trust land as defined by department of natural resources and conservation rule"

16. Page 2, lines 13 and 14.

Strike: "a general licensing"

Insert: "an"

Following: "Conservation to"

Strike: "secure" on line 13 through "rights of" on line 14

Insert: "compensate state trust land beneficiaries for the use and impacts associated with"

17. Page 2, line 14.

Following: "trapping on"

Insert: "legally accessible"

18. Page 2, lines 16 and 17.

Strike: "a licensing"

Insert: "an"

19. Page 2, line 22.

Following: "use"

Strike: "licensing"

20. Page 2, line 23.

Following: "trapping"

Insert: "on legally accessible state trust land"

21. Page 2, lines 23 and 24.

Following: "authorized to"

Strike: "license"

Insert: "enter into an agreement with"

Following: "parks to"

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Strike: "make parcels" on line 23 through "public for" on line 24

Insert: "compensate state trust land beneficiaries for the use and impacts associated with"

22. Page 2, line 25.

Following: "trapping"

Strike: "purposes"

Insert: "on legally accessible state trust land as defined in department rule"

23. Page 2, line 28.

Following: "(2)"

Strike: "A license"

Insert: "An agreement"

24. Page 2, line 29.

Following: "Through this"

Strike: "licensing"

Following: "for the"

Strike: "institutional"

25. Page 2, line 30.

Following: "market value"

Strike: "of the public" through "conveyed"

Insert: "for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land"

26. Page 2, line 30.

Strike: "Fifteen"

Insert: "Ten"

Following: "receipts from"

Strike: "a"

27. Page 3, line 1.

Strike: "license"

Insert: "the agreement"

28. Page 3, line 2.

Strike: "85% "

Insert: "90% "

29. Page 3, line 3.

Following: "trusts."

Insert: "(3) Any agreement entered into is subject to the following conditions:

(a) The department maintains sole discretion, throughout the term of the agreement, with regard to identifying legally accessible parcels, coordinating uses on state trust land, and any other necessary state trust land management decisions.

(b) An agreement between the department and the department of fish, wildlife, and parks may not convey any additional authority to the department of fish, wildlife, and parks."

Renumber: subsequent subsections

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30. Page 3, lines 4 and 5.

Following: "parks"

Strike: "has obtained" on line 4 through "trust land" on line 5

Insert: "and the department have reached an agreement as provided in subsection (1)"

31. Page 3, line 7.

Following: "upon"

Strike: "the parcels affected by the license agreement"

Insert: "legally accessible state trust land"

32. Page 3, line 9 through line 26.

Strike: section 2 in its entirety

Renumber: subsequent sections

33. Page 4, line 6.

Strike: "[sections 1 and 2]"

Insert: "[section 1]"

34. Page 4, line 22.

Strike: "licensing"

35. Page 4, line 29.

Strike: "licensing"

36. Page 4, line 30.

Strike: "[section 2]."

37. Page 5, line 3.

Strike: "licensing"

38. Page 5, line 4.

Strike: "[section 2]."

39. Page 5, line 9.

Strike: "subsections"

Insert: "subsection"

Strike: "and (4)"

40. Page 5, line 12.

Strike: "subsections"

Insert: " subsection"

Strike: "and (4)"

41. Page 5, lines 14 and 15.

Following: "sign"

Strike: "a recreational" on line 14 through "licensing" on line 15

Insert: "an"

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42. Page 5, line 15.

Strike: "[sections 1 and 2]"

Insert: "[section 1]"

43. Page 5, line 16.

Following: "use of"

Insert: "legally accessible"

Following: "state"

Insert: "trust"

Following: "land"

Strike: "parcels"

44. Page 5, line 18 through line 20.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

45. Page 5, line 25.

Following: "use"

Strike: "license"

Following: "fee for"

Strike: "a"

Following: "use"

Strike: "license"

Insert: "on state trust land"

46. Page 5, line 26 through line 27.

Following: "through"

Strike: "a recreational" on line 26 through "licensing" on line 27

Insert: "an"

47. Page 5, line 28.

Strike: "Except" through ", money"

Insert: "Money"

48. Page 6, line 5 through line 6.

Strike: "If the" on line 5 through ", the" on line 6

Insert: "The"

49. Page 6, line 11 through page 7, line 29.

Strike: section 7 in its entirety

Renumber: subsequent sections

50. Page 8, line 6.

Following: "(b)"

Strike: "15%"

Insert: "10% "

Following: "result of"

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Strike: "licensing"

Insert: "an agreement with"

51. Page 8, line 7.

Following: "the"

Strike: "public recreational rights"

Insert: "use and impacts"

52. Page 8, line 17.

Following: "(e)"

Strike: "acquisition of access and"

53. Page 8, line 18.

Following: "land"

Strike: "and other related uses"

54. Page 9, line 3.

Following: "\$4"

Strike: "\$5.25"

Insert: "\$6"

55. Page 9, line 4.

Following: "\$7"

Strike: "\$8.25"

Insert: "\$9"

56. Page 10, line 10.

Following: "\$4"

Strike: "\$5.25"

Insert: "\$6"

57. Page 10, line 11.

Following: "\$7"

Strike: "\$8.25"

Insert: "\$9"

58. Page 10, line 18.

"Insert: "NEW SECTION. Section 8. Contingent voidness. (1) If the department of natural resources and conservation and the department of fish, wildlife, and parks do not sign an agreement to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on state trust land by [the effective date of this act], then [this act] is void. The department of natural resources and conservation shall notify the code commissioner of the failure to reach an agreement.

(2) (a) If an agreement between the department of natural resources and conservation and the department of fish, wildlife, and parks to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on state trust land is terminated prior to the expiration date of the agreement, then [this act] is void upon termination. The department of natural resources and conservation shall notify the code commissioner of the termination.

(b) If the department of natural resources and conservation and the department of fish, wildlife, and parks do not enter into a renewal agreement prior to the expiration date of an agreement, then [this act] is void on the expiration

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date of the agreement. The department of natural resources and conservation shall notify the code commissioner of the expiration.

(3) If a court of competent jurisdiction determines that the agreement to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on state trust lands is invalid, then [this act] is void on the date the court's judgment is final. The department of natural resources and conservation shall notify the code commissioner of the entry of the judgment.

(4) If the department of natural resources and conservation and the department of fish, wildlife, and parks receive written notice from the regional director of the United States fish and wildlife service that [this act] will result in a loss of federal fish and wildlife funds, then [this act] is void. The department of natural resources and conservation shall notify the code commissioner that the department has received a notice and the date upon which the notice was received."

Renumber: subsequent sections

59. Page 10, line 20.

Strike: "[Sections 1 and 2] are"

Insert: "[Section 1] is"

60. Page 10, line 21 and 22.

Strike: "[sections 1 and 2] "

Insert: "[section 1]"

And, as amended, do pass. Report adopted.

SB 244, introduced bill, be amended as follows:

1. Title, page 1, line 4 and 5.

Following: "THAT A" on line 4

Strike: "SHAREHOLDER" on line 4 through "SHAREHOLDER," on line 5

Insert: "CONTRACT HOLDER"

2. Title, page 1, line 5.

Following: "PAYS"

Insert: "OPERATION OR"

3. Title, page 1, line 8.

Following: "ELIGIBLE"

Strike: "PERSONS"

Insert: "CONTRACT HOLDERS AND EMPLOYEES OF WATER USERS' ASSOCIATIONS"

4. Page 1, line 13.

Following: "association"

Strike: "shareholders, family members,"

Insert: "contract holders"

5. Page 1, line 14.

Following: "association"

Insert: "that chooses to participate as provided in 23-1-105(6)"

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6. Page 1, line 15.

Strike: "shareholders, shareholders' family members,"

Insert: "contract holders"

7. Page 1, line 17.

Following: "."

Insert: "The identification card must be issued to the contract holder or employee of the water users' association and may not be transferred or assigned to another entity."

8. Page 2, line 15.

Following: "(6) A"

Strike: "shareholder, family member of a shareholder,"

Insert: "contract holder"

9. Page 2, line 16.

Following: "that is paying"

Insert: "operation or"

10. Page 2, line 17.

Following: "for which"

Insert: "operation or"

Following: "association"

Insert: "if the contract holder or employee of the water users' association holds an identification card as provided in [section 1]"

11. Page 2, line 18.

Strike: "shareholder, shareholder's family member,"

Insert: "contract holder"

And, as amended, do pass. Report adopted.

HB 43, be concurred in. Report adopted.

HB 102, be concurred in. Report adopted.

Senators Ellingson, Grimes, McGee , Pease and Toole present at this time.

MESSAGES FROM THE GOVERNOR

February 4, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 258** sponsored by Senator F. Thomas on February 4, 2003.

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Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/4/2003

HB 220, introduced by Laszloffy
HB 280, introduced by Wanzenried
HB 287, introduced by Lindeen
HB 299, introduced by Peterson
HB 319, introduced by Lawson

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 328, introduced by Mangan, referred to Judiciary.
SB 329, introduced by Mangan, referred to Judiciary.
SB 330, introduced by Mangan, referred to Energy and Telecommunications.
SB 331, introduced by Squires, referred to Business and Labor.
SB 332, introduced by Toole, referred to Business and Labor.
SB 333, introduced by Laible, referred to Finance and Claims.
SB 334, introduced by Sprague, Tropila, referred to Business and Labor.
SB 335, introduced by Laible, Jackson, Barkus, Brueggeman, DePratu, Dowell, Fisher, Glaser, Harrington, Keenan, Lawson, Stonington, referred to Energy and Telecommunications.
SB 336, introduced by Mahlum, Bohlinger, Brueggeman, DePratu, Kaufmann, Keenan, Nelson, Pattison, referred to Fish and Game.
SB 337, introduced by Tropila, referred to Business and Labor.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 13, introduced by Toole, referred to Energy and Telecommunications.

The following House bills were introduced, read first time, and referred to committees:

HB 220, introduced by Laszloffy (by request of the Department of Corrections), referred to Judiciary.
HB 280, introduced by Wanzenried, referred to Highways and Transportation.
HB 287, introduced by Lindeen, Bergren, Bohlinger, Callahan, Hansen, B. Ryan, referred to Natural Resources.
HB 299, introduced by Peterson, Bales, Barrett, Ripley, Tash, referred to Agriculture, Livestock and Irrigation.
HB 319, introduced by Lawson, referred to Business and Labor.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

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Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 226 - Senator DePratu moved **SB 226** do pass. Motion carried unanimously.

HB 29 - Senator Grimes moved **HB 29** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Ryan.
Total 1

Absent or not voting: Taylor.
Total 1

Excused: None.
Total 0

HB 53 - Senator Grimes moved **HB 53** be concurred in. Motion carried with Senator Johnson voting nay.

HB 59 - Senator Elliott moved **HB 59** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Bales, Butcher, Curtiss, Esp, Mahlum, McGee.
Total 6

Absent or not voting: Kitzenberg.
Total 1

Excused: None.
Total 0

HB 67 - Senator Cooney moved **HB 67** be concurred in. After discussion, Senator Cooney made a **substitute motion** that **HB 67** be moved to the bottom of the second reading board. Motion carried unanimously.

HB 149 - Senator McGee moved **HB 149** be concurred in. Motion carried unanimously.

SB 231 - Senator Cromley moved **SB 231** do pass. Motion carried unanimously.

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SB 252 - Senator Squires moved **SB 252** do pass. Motion passed as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 27

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 65 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 121 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton,

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Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 238 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 274, requiring 2/3 of entire Legislature passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 28

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

HB 67 - Senator Cooney moved **HB 67** be taken from second reading and rereferred to the committee on Highways

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and Transportation. Motion carried.

SB 53 - Senator Harrington moved **SB 53** be taken from the committee on Business and Labor, printed and placed on second reading. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, February 6, 2003. Motion carried.

Senate adjourned at 3:16 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
February 6, 2003

Senate Chambers
State Capitol

MOTIONS

Majority Leader Thomas moved that the Senate proceed to the House of Representatives for the purpose of receiving the State of the Judiciary Address, and further, that the Senate reconvene upon adjournment of the joint session. Motion carried.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Clark escorted the Senate into the House chamber.

Speaker Mood recognized President Keenan and yielded the chair to him. President Keenan relinquished the chair to Speaker Mood so he could preside over the joint session.

Senate Majority Leader Thomas moved the body resolve itself into a joint session for the purpose of receiving the State of the Judiciary Address from The Honorable Chief Justice of the Supreme Court of the State of Montana, Karla Gray. Motion carried.

Senate Majority Leader Thomas moved the Speaker be authorized to appoint a committee to notify the Honorable Chief Justice and Associate Justices of the Supreme Court of the State of Montana that we are in joint session and ready to receive the State of the Judiciary Address. Motion carried.

The Speaker appointed Senator Wheat, Senator Perry, Representative Shockley and Representative Jayne to escort the Honorable Chief Justice and Associate Justices into the House chambers.

Sergeant-at-arms Cramer admitted the escort committee and Associate Justices into the House chamber.

Sergeant-at-arms Cramer admitted the escort committee and The Honorable Chief Justice Gray into the House chambers.

Members of the Montana State Prison Honor Guard posted the colors, followed by the Pledge of Allegiance. Pastor Keith Johnson of the Evangelical Covenant Church gave the invocation.

Speaker Mood welcomed the Justices and introduced Chief Justice Karla M. Gray, who gave the following address:

I am honored to address this joint session of the 58th Montana Legislature, and the people of Montana we all serve. Our beloved state faces particularly challenging times right now, and we must all give the best that is in us--and perhaps a little more--to solve the problems we face. As I said two years ago, when Montana's severe fiscal straits had not yet surfaced, this is a time to renew our commitment to providing the people of Montana all they deserve, from all of us, in our respective roles under the Montana Constitution. I assured you then, and I assure you again today, that Montana's judges have made this commitment. And I know the Governor and this Legislature have done the same. We must all work together--not at odds with each other--or we cannot succeed; and succeed we must!

There are so many thoughts I'd like to share this afternoon, but time is short and we all have much work to do. So, first, I'll briefly address the structure of Montana's judicial branch of government. Then I need to visit with you--on this one occasion when I can do so face-to-face with all of you at once--about matters pending here which impact the judicial branch. But don't worry--with the scores of court-related bills already in the hopper this year, I promise

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not to touch on all of them! And, finally, I'll return to my opening theme of our three-branch governmental structure.

You know, courts and the rule of law are the cornerstones of our constitutional republic. Courts are where our citizens bring their disputes for peaceful resolution, rather than taking to the streets in arms. Here in Montana, our citizens are served by a 3-tiered judicial system that has been--and remains--strong, notwithstanding enormous changes and challenges in the last two years. We are strong because Montanans elect high quality judges and justices at all levels to provide them the justice to which they are entitled, without unreasonable delay, under the Montana Constitution. Also, of course, we are strong because--like the other two branches--we have enormously dedicated staff to help us serve all Montanans.

The first level of our judicial branch is the 158 courts of limited jurisdiction--the Justices of the Peace, Municipal Court judges, and City Court judges. These are our local courts, and they hear over 250,000 cases each year, including traffic offenses, local ordinance violations, misdemeanor criminal charges, small-dollar-amount civil actions, landlord/tenant disputes and others. These judges are truly the "front line" judges in our branch, and they are the only courts with which most Montanans will ever have contact. They truly deserve our respect, and our thanks, for the outstanding job they do in handling their enormous case loads in a fair and expeditious manner.

The next level of Montana courts is the district courts, with their 42 judges; and I want to thank the last Legislature again--as I'm certain the people of Cascade and Ravalli Counties do--for adding a new judge to each of those two judicial districts. The statutory water court and workers' compensation court are at this same level in our judicial branch structure. Except for the specialized statutory courts, the district courts are courts of general jurisdiction; they handle every conceivable kind of civil case, all felony criminal cases, judicial review of agency decisions and some appeals from the courts of limited jurisdiction. Our district court judges are also our Youth Court judges. Approximately 30,000 cases are filed in the district courts each year and those cases are in very good hands.

The third level in our judicial branch is, of course, the Montana Supreme Court. The seven members of the Supreme Court--a Chief Justice and six Justices--are the "end of the road" on questions arising under Montana law. Many of our cases involve trying to determine what your intent was in passing certain statutes. And if you think we got your intent wrong, you can--and regularly do--amend statutes in response. We sometimes apply statutes as expressly written, but invite you to revisit those statutes. And you often do. We are also, though, the final protectors of the rights and freedoms Montanans provided directly to each of us when they--not this body and not the Court--adopted the 1972 Montana Constitution.

Our Supreme Court is uncommonly busy, because we must take the appeals anyone wants to bring from the statutory courts and all the district courts across the state. And we are uncommonly productive, because we are dedicated to meeting our constitutional responsibilities to the people of Montana in a quality manner, and as quickly as you give us the resources to accomplish.

With regard to productivity and efficiency at the Supreme Court, both increased in 2002 over 2001. We issued 353 written opinions last year, compared to 316 in 2001. And, at least as importantly, the average number of days from the time a case came "upstairs" to the Court for consideration, to the time an opinion was issued, decreased from 170 days in 2001, to 123 days in 2002. Now that may not seem like a big improvement to you, but it matters greatly to litigants who have a substantial interest in finally having their cases resolved. We accomplished these improvements by making good use of the three new law clerks authorized by the last Legislature, as moved in budget subcommittee by Senator Stapleton, and which I urge you to reauthorize this year. Please don't let us go backwards in getting Montanans to the "end of the legal road" without unreasonable delay, as required by the Montana Constitution!

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In 2002, the Supreme Court also changed some long-standing internal procedures, which allows us to consider more new appeals each week than we had in 2001. We continue to seek additional innovative ways to increase efficiency, without sacrificing the quality of our work. Indeed, we are presently creating a new style of opinion to resolve some appeals more efficiently than ever before. It doesn't go as far as Representative Shockley would like us to go, but I'm pretty sure he'll think it's an improvement!

I turn now, as I must, to legislative-related matters, and highlight those which impact fiscally on the abilities of Montana's courts to meet their responsibilities to the citizens of Montana. First is Representative Shockley's HB 18, introduced at the Supreme Court's request. It's a simple, but absolutely critical, bill which does only two things: it eliminates the sunset on the current court information technology surcharge, and increases the surcharge from \$5 to \$10. There is no general fund impact. The surcharge is pretty much the only source of funding for judicial branch IT, so we not only can't let it sunset, it must be increased to meet the additional and significant IT needs which came over--without any related funding--as a result of state assumption. This bill zinged out of House Judiciary 18 to 0, and received a third reading vote in the House of 99 to 0. I ask the Senate to give HB 18 the same level of support.

Most of the rest of my remarks on legislative matters relate in some way or other to state assumption. When I stood before you two years ago, the courts of Montana were being funded--as always they had been; never luxuriously, but always adequately to meet at least minimal levels needed for the courts to meet their constitutional obligations to the people of Montana. The branch's budget proposals to the Legislature generally contained a couple of decision packages, but they were not highly controversial.

Then came HB 124, the "Big Bill", and SB 176, the state assumption bill. SB 176 was not a bill at the Supreme Court's request; we took no position on it at all. Nor did state assumption receive a lot of scrutiny on the floor of either house, sort of coming in under the wing of the "Big Bill" nearly at the end of the session. In any event, state assumption is the current reality. Conceptually, it's a good idea, and it may well provide opportunities in the future for Montana's courts to better serve all Montanans.

At the moment, however, state assumption has made the judicial branch's budget a nightmare. And so, my first request is that you continue to ensure that Montana's courts are adequately funded, in whichever way you ultimately determine is appropriate. State assumption was never intended to hurt Montana's courts or the people of Montana we serve!

The tools to fund the courts are before you. Those tools, starting with the highest adverse impact on the general fund, currently appear to be these:

1) Fund the judicial branch's budget request from the general fund. Our budget request is approximately \$18 million over the executive's recommended budget for the biennium, with about \$17.2 million of that amount directly related to state assumption;

2) Continue to fund the state assumption-related expenses on a shared state/counties basis by means of a proposal I've offered to the budget subcommittee and a Senate joint subcommittee. That proposal would set aside \$7.5 million each year in the coming biennium for the reimbursement of what we call variable costs; any excess would go to the counties, but the counties would retain fall-back responsibility if the \$7.5 million per year is not enough to cover those costs. This proposal is about \$2.4 million over the executive's recommended budget;

3) Return the responsibility for \$17.2 million in state assumption-related costs to the counties under SB 134, which was introduced at the request of the Office of Budget and Program Planning. This bill, and other matters, are currently being researched by the Senate joint subcommittee; or

4) Adopt SB 264, which repeals state assumption altogether and may save the general fund over \$22 million. These decisions are, of course, yours to make. My overriding position, stated simply, is that Montana's courts must not be underfunded as a result of the 57th Legislature's action in adopting state assumption.

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My second request is that, in funding the courts, you not allow state assumption funding needs to impact adversely on other Court programs that pre-existed the last Legislature's decision to make the state responsible for district court expenses. It would be totally unfair to force other Court programs to subsidize state assumption, or to refuse to consider the needs of those programs separately from the needs of state assumption. And back to state assumption for a minute, I ask you to authorize the 2.25 administrative FTE requested in our budget proposal. Existing staff simply cannot manage the unimaginable paper blizzard which has engulfed us since state assumption. The result is that the counties are having to wait too long to be reimbursed, and that's just wrong!

The last thoughts I want to share with you on fiscal matters are these: Notwithstanding the recent turbulence resulting from state assumption, the Montana judiciary is fully committed, one and all, both to ensuring that all Montanans have access to justice, and to administering justice fairly and timely. We cannot do it without your support in providing the resources needed to meet our constitutional responsibilities.

Let me close by coming back full circle to the beginning, and talking again about all three branches of government. It occurred to me a couple of nights ago that there are actually more elected judges in Montana than there are members of the Montana Legislature. In addition, the judicial branch has a higher percentage of women among its ranks than the Legislature. These are not significant differences, merely informational tidbits. But there are differences between all three branches that are significant, and perhaps the biggest of those is this: the executive branch and the legislative branch are essentially pro-active branches, while the judicial branch is not. The executive branch is charged with running state government at all times, in nearly every respect. Similarly, the legislative branch currently meets every two years to enact, in a very active way, the laws which reflect the public policy of Montana, and which govern all manner of behavior for both the people of Montana and the private and public sectors of this wonderful state. The judicial branch's role is, in essence, to wait for the people of Montana to bring us their disputes to resolve. Of course, there's never really any waiting involved, given the caseloads at all levels of our branch. But ours is a passive role; our sole existence is to be there for those who need us, and to resolve their problems fairly and objectively under the law. And we are there--as are both of the other branches in their different ways--for the people of Montana!

You know, I'm certain we all agree that our system of government, with its three separate and distinct branches and its system of checks and balances, is the best system in the world. There will always be inevitable tensions between the branches, because those tensions were deliberately created by the framers of both the United States and Montana Constitutions. But this is the place--this Legislature, every two years--where the three branches of government come together to resolve Montana's problems. And I'd suggest to you that the built-in tensions between the branches amount to nothing, when compared with the necessity of working together--in good faith and with good will--to do the best we can for the people of Montana. So let's join together in ensuring that we conduct ourselves with mutual respect and civility. And let's resolve our problems together. If we do less, the people's trust and confidence in government will continue to decrease, and we will have lost this valuable opportunity to show Montanans the inherent greatness of our governmental structure.

In closing, and on behalf of the entire judicial branch, I extend our very best wishes to you as you wrestle through this enormously challenging session.

Speaker Mood thanked Chief Justice Gray for her address, and requested the escort committee to escort Chief Justice Gray, Associate Justices and dignitaries from the House chambers.

Senate Majority Leader Thomas moved the joint session of the 58th Legislature, convened to receive the State of the Judiciary Address, be adjourned. Motion carried.

Joint session adjourned at 1:40 p.m.

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Senate reconvened at 1:44 p.m. President Keenan presiding.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the twenty-fifth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 328, SB 329, SB 330, SB 331, SB 332, SB 333, SB 334, SB 335, SB 336, SB 337, SJR 13.**

Correctly engrossed: **SB 122, SB 130, SB 166, SB 220, SB 244, SB 263, SB 284.**

BUSINESS AND LABOR (Mahlum, Chairman):

2/6/2003

SB 249, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "FINANCING"

Insert: "AND ACQUIRING"

2. Title, page 1, line 6 through line 7.

Following: "PROJECTS;" on line 6

Strike: remainder of line 6 through "OBLIGATIONS;" on line 7

3. Page 1, line 24.

Following: "financing"

Insert: "and acquiring"

4. Page 1, line 26 through line 28.

Following: "section." on line 26

Strike: remainder of line 26 through "projects." on line 28

5. Page 2, line 6.

Following: "authorized to"

Insert: "acquire or"

6. Page 2, line 9.

Following: first "the"

Insert: "acquisition or"

7. Page 2, line 13.

Following: "design and"

Insert: "acquisition or"

And, as amended, do pass. Report adopted.

TAXATION (DePratu, Chairman):

2/5/2003

HB 207, be concurred in. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/5/2003

HB 99, introduced by Golie
HB 223, introduced by Lawson
HB 246, introduced by Harris
HB 340, introduced by Andersen
HB 354, introduced by Newman
HB 366, introduced by P. Clark
HB 389, introduced by Gibson

MOTIONS

HB 215 - Senator Grimes moved **HB 215** be taken from the Judiciary Committee and rereferred to the committee on Highways and Transportation. Motion carried.

HB 44 - Senator Bohlinger moved consideration of **HB 44** be placed beneath SB 54 on the second reading board this legislative day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 338, introduced by Tropila, referred to Taxation.
SB 339, introduced by Cooney, Ellingson, Taylor, referred to State Administration.
SB 340, introduced by Grimes, referred to Local Government.
SB 341, introduced by F. Thomas, referred to Business and Labor.
SB 342, introduced by Wheat, referred to Business and Labor.
SB 343, introduced by Laible, referred to Local Government.
SB 344, introduced by Laible, referred to Business and Labor.
SB 345, introduced by Elliott, referred to Highways and Transportation.
SB 346, introduced by Keenan, referred to Public Health, Welfare and Safety.
SB 347, introduced by Keenan, referred to Public Health, Welfare and Safety.
SB 348, introduced by Keenan, referred to Public Health, Welfare and Safety.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 14, introduced by Curtiss, P. Clark, DePratu, Fisher, Laible, Maedje, Roush, Zook, referred to Public Health, Welfare and Safety.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Bohlinger in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

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HB 23 - Senator Mangan moved **HB 23** be concurred in. Motion carried unanimously.

HB 35 - Senator Sprague moved **HB 35** be concurred in. Motion carried unanimously.

HB 128 - Senator Nelson moved consideration of **HB 128** be moved to the bottom of the board. Motion carried.

HB 167 - Senator Gebhardt moved **HB 167** be concurred in. Motion carried unanimously.

Senator McGee assumed the chair.

SB 54 - Senator Bohlinger moved **SB 54** do pass. Motion carried with Senators Black and Butcher voting nay.

HB 44 - Senator Bohlinger moved **HB 44** be concurred in. Motion carried unanimously.

Senator Bohlinger re-assumed the chair.

Senator Nelson excused at this time.

SB 120 - Senator Glaser moved **SB 120** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 20

Absent or not voting: None.

Total 0

Excused: Nelson.

Total 1

SB 262 - Senator Perry moved **SB 262**, second reading copy, be amended as follows :

1. Page 5, line 3.

Insert: "(3) An appointee under this section may take office only if the vacancy in fact exists at the commencement of the term of office."

Amendment **adopted** unanimously.

Senator Nelson present at this time.

SB 262 - Senator Perry moved **SB 262**, as amended, do pass. Motion carried unanimously.

Senator Cobb excused at this time.

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SJR 4 - Senator Elliott moved **SJR 4**, second reading copy, be amended as follows :

1. Page 3.

Following: line 1

Insert: "BE IT FURTHER RESOLVED, that the Montana Congressional Delegation be apprised of the extreme gravity of the matter and be urged to take action to expedite the delisting."

2. Page 3, line 3.

Following: "Service,"

Insert: "the presiding officers of each house of the Legislature of the states of Idaho and Wyoming,"

Amendment **adopted** unanimously.

Senator Cobb present at this time.

SJR 4 - Senator Elliott moved **SJR 4**, as amended, be adopted. Motion carried with Senator Harrington voting nay.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Bohlinger moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 226 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 231 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible,

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Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 252 passed as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 26

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 29, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Ryan.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 53 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Johnson.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 59, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Bales, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 149, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

MOTIONS

SB 322 - Senator Ellingson moved **SB 322** be taken from the committee on Judiciary and rereferred to the State Administration Committee. Motion carried.

SB 332 - Senator Mahlum moved **SB 332** be taken from the committee on Business and Labor and rereferred to the Taxation committee. Motion carried.

Senator DePratu rose on a point of personal privilege and said he understands the staff has not been invited to be included in activities, held in the rotunda, for the Legislature. He feels the staff is part of the system and that they are partners and should be able to participate in any activity as well as the Senators and Representatives. He did not feel he could participate if the staff were not invited.

Senator Tester echoed his sentiments.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, February 7, 2003. Motion carried.

Senate adjourned at 3:00 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
February 7, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the twenty-sixth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 338, SB 339, SB 340, SB 341, SB 342, SB 343, SB 344, SB 345, SB 346, SB 347, SB 348, SJR 14.**

Correctly engrossed: **SB 249, SB 262, SJR 4.**

FINANCE AND CLAIMS (Zook, Chairman):

2/6/2003

SB 128, do pass. Report adopted.

HB 136, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

2/7/2003

SB 217, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "40"

Insert: "60"

2. Title, page 1, line 6 through line 9.

Strike: "REQUIRING" on line 6 through "SEAT;" on line 9

3. Page 1, line 16.

Strike: "40"

Insert: "60"

4. Page 1, line 18 through line 21.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

5. Page 1, lines 26 and 27.

Strike: "subsections (1) and (2)"

Insert: "subsection (1)"

6. Page 1, line 28.

Strike: "system or" through "seat"

And, as amended, do pass. Report adopted.

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NATURAL RESOURCES (Tash, Chairman):
HB 175, be concurred in. Report adopted.

2/6/2003

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/6/2003

HB 218, introduced by Bookout-Reinicke
HB 321, introduced by Younkin
HB 403, introduced by Keane
HB 406, introduced by Waitschies

House joint resolutions passed and transmitted to the Senate for concurrence:

2/6/2003

HJR 1, introduced by Harris
HJR 5, introduced by Lewis
HJR 6, introduced by D. Brown

MOTIONS

SB 130 - Senator McGee moved consideration of **SB 130** be passed for the day. Motion carried.

SB 286 - Senator Sprague moved **SB 286** be taken from the table in the committee on Highways and Transportation, printed and placed on second reading. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, Ryan, Shea, Sprague, Squires, Tester, Wheat, Zook.
Total 29

Nays: Bales, Cooney, Esp, Grimes, Hansen, Harrington, McNutt, O'Neil, Pease, Perry, Roush, Schmidt, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 130 - Senator McGee made a substitute motion to **SB 130** to move it to the bottom of the second reading board this legislative day. Motion carried.

SB 62 - Senator Ryan moved **SB 62** be taken from the committee on Energy and Telecommunications, printed and placed on second reading the twenty-eighth legislative day. Motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

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Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 349, introduced by Anderson, referred to Business and Labor.
SB 350, introduced by Grimes, Peterson, Bales, Matthews, Mood, Ripley, Tash, F. Thomas, referred to Natural Resources.
SB 351, introduced by Cobb, referred to Taxation.
SB 352, introduced by Bohlinger, referred to Highways and Transportation.
SB 353, introduced by Bohlinger, referred to Taxation.
SB 354, introduced by Bohlinger, referred to Business and Labor.
SB 355, introduced by McGee, referred to State Administration.
SB 356, introduced by Grimes, referred to Judiciary.

The following Senate joint resolution was introduced, read first time, and referred to committees:

SJR 15, introduced by Nelson, referred to Fish and Game.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 3, introduced by Wheat, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hansen in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 128 - Senator Nelson moved **HB 128** be concurred in. After discussion, Senator Stonington made a **substitute motion** that **HB 128**, second reading copy, be amended as follows :

1. Page 1, line 20.

Following: "principal"

Strike: "of"

Insert: "generated from"

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Amendment **adopted** unanimously.

Senator Elliott excused at this time.

HB 128, requiring 2/3 of entire Legislature - Senator Nelson moved **HB 128**, as amended, be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Esp, McGee, Story.
Total 3

Absent or not voting: None.
Total 0

Excused: Elliott.
Total 1

HB 43 - Senator Perry moved **HB 43** be concurred in. Motion carried unanimously.

Senator Elliott present at this time.

HB 232 - Senator Gebhardt moved **HB 232** be concurred in. Motion carried unanimously.

HB 102 - Senator Perry moved **HB 102** be concurred in. Motion carried unanimously.

SB 122 - Senator Tash moved **SB 122** do pass. Motion carried with Senators Gebhardt and O'Neil voting nay.

SB 166 - Senator Bales moved **SB 166** do pass. Motion carried unanimously.

SB 220 - Senator F. Thomas moved **SB 220** do pass. Motion carried with Senator Toole voting nay.

SB 232 - Senator Mahlum moved **SB 232** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Ryan, Shea, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Zook, Mr. President.
Total 36

Nays: Cooney, Ellingson, Elliott, Harrington, Laible, Mangan, Nelson, Pease, Schmidt, Sprague, Story, Toole, Tropila, Wheat.
Total 14

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

Senator Cobb excused at this time.

SB 244 - Senator Story moved **SB 244** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Nelson, Schmidt, Toole.
Total 3

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Hansen moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senator Cobb present at this time.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 54 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 120 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 23 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 35 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 44 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 167 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 9:00 a.m., Saturday, February 8, 2003. Motion carried.

Senate adjourned at 2:50 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
February 8, 2003

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Taylor, excused. Quorum present.

The presiding officer has authenticated the daily journal for the twenty-seventh legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 349, SB 350, SB 351, SB 352, SB 353, SB 354, SB 355, SB 356, SJR 15, SR 3.**

Correctly engrossed: **SB 128.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/7/2003

HB 142, introduced by Devlin

HB 150, introduced by Lawson

HB 151, introduced by B. Olson

HB 180, introduced by E. Clark

HB 404, introduced by D. Brown

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 357, introduced by Story, referred to Local Government.

SB 358, introduced by Elliott, Barkus, Bohlinger, Gillan, Lewis, referred to Public Health, Welfare and Safety.

SB 359, introduced by Cromley, Becker, referred to Highways and Transportation.

SB 360, introduced by F. Thomas, referred to Business and Labor.

SB 361, introduced by Cobb, referred to Energy and Telecommunications.

SB 362, introduced by Grimes, referred to Judiciary.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 16, introduced by Sprague (by request of the Senate Fish and Game Standing Committee), referred to Fish and Game.

The following House bills were introduced, read first time, and referred to committees:

HB 99, introduced by Golie (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 142, introduced by Devlin, referred to Local Government.

HB 150, introduced by Lawson (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

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HB 151, introduced by B. Olson (by request of the Secretary of State), referred to State Administration.

HB 180, introduced by E. Clark (by request of the Legislative Finance Committee), referred to Finance and Claims.

HB 218, introduced by Bookout-Reinicke (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

HB 223, introduced by Lawson, Cooney (by request of the Board of Land Commissioners and the Department of Natural Resources and Conservation), referred to Natural Resources.

HB 246, introduced by Harris, referred to Judiciary.

HB 321, introduced by Younkin, Hurwitz, Ross, Schrumpf, B. Thomas, referred to Public Health, Welfare and Safety.

HB 340, introduced by Andersen, referred to Judiciary.

HB 354, introduced by Newman, referred to Business and Labor.

HB 366, introduced by P. Clark, Anderson, Bales, Black, Branae, Cyr, Facey, Glaser, Hedges, Jacobson, Kitzenberg, Laslovich, Lehman, Olson, Ripley, D. Ryan, Shea, Wagman, referred to Education and Cultural Resources.

HB 389, introduced by Gibson, referred to Judiciary.

HB 403, introduced by Keane, referred to Business and Labor.

HB 404, introduced by D. Brown, referred to Judiciary.

HB 406, introduced by Waitschies, referred to Taxation.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 1, introduced by Harris, referred to Judiciary.

HJR 5, introduced by Lewis, Cohenour, Gallik, Jacobson, referred to Education and Cultural Resources.

HJR 6, introduced by D. Brown, referred to Education and Cultural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Elliott in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 130 - Senator McGee moved **SB 130** do pass. Motion carried unanimously.

SB 263 - Senator Grimes moved **SB 263** do pass. Motion carried unanimously.

SB 284 - Senator Wheat moved **SB 284** do pass. Motion carried with Senators Cocchiarella, Cromley and Squires voting nay.

HB 207 - Senator Black moved **HB 207** be concurred in. Motion carried unanimously.

SB 128 - Senator Mahlum moved **SB 128** do pass. Motion carried unanimously.

SB 249 - Senator Thomas moved consideration of **SB 249** be passed for the day. Motion carried.

HB 136 - Senator Stonington moved **HB 136** be concurred in. Motion carried unanimously.

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HB 175 - Senator McCarthy moved **HB 175** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Elliott moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 122 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Gebhardt, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 166 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Elliott.
Total 1

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 220 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy,

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McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Cooney, Nelson, Schmidt, Toole.

Total 4

Absent or not voting: None.

Total 0

Excused: Taylor.

Total 1

SB 232 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Ryan, Shea, Squires, Stapleton, Tash, Thomas, Wheat, Zook, Mr. President.

Total 35

Nays: Cooney, Ellingson, Elliott, Harrington, Laible, Nelson, Pease, Schmidt, Sprague, Stonington, Story, Tester, Toole, Tropila.

Total 14

Absent or not voting: None.

Total 0

Excused: Taylor.

Total 1

SB 244 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Nelson, Schmidt, Toole.

Total 3

Absent or not voting: None.

Total 0

Excused: Taylor.

Total 1

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SB 262 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SJR 4 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Harrington.
Total 1

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

HB 43 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Taylor.
Total 1

HB 102 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

HB 232 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

MOTIONS

SB 232 - Senator Sprague moved he be allowed to change his vote on **SB 232**, third reading this legislative day, from yea to nay. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans and thanked them for their work through the week.

SENATE JOURNAL
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ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, February 10, 2003. Motion carried.

Senate adjourned at 10:09 a.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-NINTH LEGISLATIVE DAY**

Helena, Montana
February 10, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Mangan and Toole, excused. Quorum present.

The presiding officer has authenticated the daily journal for the twenty-eighth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 357, SB 358, SB 359, SB 360, SB 361, SB 362, SJR 16.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
HB 47, be concurred in. Report adopted.

2/7/2003

BUSINESS AND LABOR (Mahlum, Chairman):
SB 241, introduced bill, be amended as follows:

2/10/2003

1. Title, line 4.

Strike: ""DEALERSHIP", "

2. Title, line 8.

Strike: "VEHICLE FRANCHISES"

Insert: "VEHICLES"

3. Title, line 11.

Strike: "VEHICLE FRANCHISES"

Insert: "VEHICLES"

4. Page 1, line 19.

Strike: "franchisee"

Insert: "new motor vehicle dealer"

5. Page 1, line 20 through line 21.

Strike: strike subsection (2) in its entirety

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SB 268, introduced bill, be amended as follows:

1. Title, page 1, lines 6 and 7.

Following: "THEMSELVES;"

Strike: remainder of line 6 through "REQUIRED;" on line 7

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TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 10, 2003

2. Page 1, line 15.

Strike: "(a)"

3. Page 1, line 16.

Following: "owner"

Insert: "in new construction or a major remodeling"

4. Page 1, line 17.

Following: "residence"

Insert: "in which the plumbing or piping may be covered by walls, floors, or ceilings "

5. Page 1, line 18 through line 22.

Strike: subsection (b) in its entirety

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

2/7/2003

HB 114, be concurred in. Report adopted.

HB 115, be concurred in. Report adopted.

HB 143, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

2/10/2003

HB 88, be concurred in. Report adopted.

HB 96, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

2/10/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 12:00 noon, Saturday, February 8, 2003:

TITLE

NAME

Pages:

Derek Duncan, Deer Lodge, MT
Kyle Grimes, Clancy, MT
Jane Purdy, Missoula, MT
Holly Husted, Jackson, MT
Tyson Lies, Gt. Falls, MT
David Payne, Lewistown, MT
Peter Green, Bozeman, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 10, 2003:

TITLE

NAME

SPONSOR

Pages:

Sarah Smith, Glen, MT
Emily Tutvedt, Kalispell, MT
Andrew Yager, Edgar, MT
Maggie Scott, Whitehall, MT
Taylor Clayton, Bigfork, MT

Senator Tash
Senator Barkus
Senator Story
Senator Grimes
Senator Keenan

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Britt Kindelman, Billings, MT
Robert Paskey, Frenchtown, MT
Kate Kaercher, Havre, MT

Senator Bohlinger
Senator Mahlum
Senator Nelson

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/8/2003

HB 198, introduced by Lambert
HB 211, introduced by Newman
HB 247, introduced by Harris
HB 252, introduced by Hedges
HB 253, introduced by Hedges
HB 272, introduced by Gillan
HB 292, introduced by Younkin
HB 308, introduced by Musgrove
HB 364, introduced by Bergren
HB 392, introduced by Weiss
HB 410, introduced by Younkin

House joint resolutions passed and transmitted to the Senate for concurrence:

2/10/2003

HJR 9, introduced by Smith
HJR 13, introduced by Hurwitz

MOTIONS

SB 217 - Senator Mahlum moved **SB 217** be taken from the second reading board this legislative day and rereferred to the committee on Highways and Transportation. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 363, introduced by McNutt, Mendenhall, A. Olson, referred to Judiciary.
SB 364, introduced by Cooney, Keenan, referred to Public Health, Welfare and Safety.
SB 365, introduced by Stonington, referred to Energy and Telecommunications.
SB 366, introduced by Grimes, Mendenhall, referred to Natural Resources.
SB 367, introduced by McNutt, Brueggeman, referred to Judiciary.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 17, introduced by Tester, referred to Business and Labor.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Anderson in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Mangan present at this time.

SB 249 - Senator Taylor moved **SB 249** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 37

Nays: Bohlinger, Cromley, Ellingson, Elliott, Hansen, Johnson, Mangan, Nelson, O'Neil, Squires, Stonington, Tester.

Total 12

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

SB 286 - Senator Sprague moved **SB 286**, second reading copy, be amended as follows :

1. Title, page 1, line 5.

Strike: "87.5"

Insert: "87"

2. Page 1, line 19.

Strike: "87.5"

Insert: "87"

3. Page 2, line 11.

Strike: "87.5"

Insert: "87"

Amendment **adopted** unanimously.

SB 286 - Senator Sprague moved **SB 286**, as amended, do pass. Motion **failed** as follows:

Yeas: Anderson, Barkus, Bohlinger, Butcher, DePratu, Ellingson, Elliott, Glaser, Johnson, Kitzenberg, Mahlum, McNutt, Sprague, Squires, Stapleton, Tash, Wheat, Zook, Mr. President.

Total 19

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Nays: Bales, Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Esp, Gebhardt, Grimes, Hansen, Harrington, Laible, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Stonington, Story, Taylor, Tester, Thomas, Tropila.

Total 30

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

SB 286 - Senator Thomas moved **SB 286** be **indefinitely postponed**. Motion **carried** as follows:

Yeas: Bales, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Laible, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila.

Total 34

Nays: Anderson, Black, Bohlinger, Butcher, Ellingson, Glaser, Johnson, Kitzenberg, Mahlum, McNutt, Sprague, Squires, Wheat, Zook, Mr. President.

Total 15

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Anderson moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 128 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

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TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 10, 2003

Total 0

Excused: Toole.

Total 1

SB 130 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Story.

Total 1

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

SB 263 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

SB 284 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Cromley.

Total 1

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Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

HB 128, as amended by the Senate, requiring 2/3 of entire Legislature concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Mangan, Story.
Total 2

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

HB 136 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Mangan, Stapleton, Taylor.
Total 3

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

HB 175 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 49

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TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 10, 2003

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

HB 207 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

MOTIONS

SB 358 - Senator Elliott moved **SB 358** be taken from the committee on Public Health, Welfare and Safety and rereferred to the committee on Business and Labor. Motion **failed** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Laible, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Tropila, Wheat, Mr. President.
Total 23

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook.
Total 26

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

SB 358 - Senator Elliott moved to convene a meeting of the Rules Committee regarding **SB 358**. The Senate stood at ease. After discussion, Senator Elliott **withdrew** his motion at this time and reserved his right to call a meeting at a later time.

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 10, 2003

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, February 11, 2003. Motion carried.

Senate adjourned at 2:33 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTIETH LEGISLATIVE DAY**

Helena, Montana
February 11, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Elliott and Toole, excused. Quorum present.

The presiding officer has authenticated the daily journal for the twenty-ninth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 363, SB 364, SB 365, SB 366, SB 367, SJR 17.**

Correctly engrossed: **SB 241, SB 268.**

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman): 2/11/2003
HB 168, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman): 2/7/2003
HB 93, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman): 2/10/2003
SB 281, introduced bill, be amended as follows:

1. Title, line 4.

Following: "'AN ACT"

Strike: "INCREASING THE FINE FOR"

Insert: "CLARIFYING THAT CRIMINAL MISCHIEF INCLUDES"

2. Page 1, line 16.

Following: "insurer;"

Strike: "or"

3. Page 1, line 18.

Following: "towns."

Insert: (e) damages, destroys, removes, or moves a survey monument, as defined in 70-22-103, without consent. This subsection (1)(e) does not apply to a licensed professional surveyor retained to perform surveying work."

4. Page 1, line 25.

Following: "(3)"

Strike: "(a)"

Following: "A"

Strike: "Except as provided in subsections (3)(b) and (3)(c), a"

Insert: "A"

5. Page 1, line 28.

Strike: "(b)"

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THIRTIETH LEGISLATIVE DAY - FEBRUARY 11, 2003

6. Page 2, line 3 through line 6.

Strike: subsection (c) in its entirety

And, as amended, do pass. Report adopted.

SB 283, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "REVISING"

Insert: "CLARIFYING"

2. Title, line 4 through line 5.

Following: "TO" on line 4

Strike: remainder of line 4 through "SUPPORT" on line 5

Insert: "VENUE IN FAMILY LAW CASES"

3. Title, line 6 through line 7.

Following: "MARRIAGE;" on line 6

Strike: remainder of line 6 through "SESSIONS;" on line 7

4. Title, line 9 through line 10.

Following: "PARTIES;" on line 9

Strike: remainder of line 9 through "CASES;" on line 10

Strike: "40-4-302," on line 10

5. Page 1, line 21.

Strike: "to file"

Insert: "of trial for"

6. Page 1, line 22.

Strike: "commencement"

Insert: "filing"

7. Page 2, line 15 through line 28.

Strike: section 3 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

HB 208, be concurred in. Report adopted.

HB 209, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

2/11/2003

HB 233, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

2/11/2003

SB 190, introduced bill, be amended as follows:

1. Title, page 1, line 7.

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Following: ";

Insert: "REQUIRING THE BOARD OF DENTISTRY TO ADOPT RULES DEFINING THE QUALIFICATIONS NECESSARY TO OBTAIN A LIMITED ACCESS PERMIT; REQUIRING A LICENSED DENTAL HYGIENIST PRACTICING UNDER PUBLIC HEALTH SUPERVISION TO OBTAIN A LIMITED ACCESS PERMIT AND TO FOLLOW CERTAIN GUIDELINES;"

2. Page 1, line 13.

Following: "hygienist"

Strike: ", " through "dentist,"

3. Page 1, line 14.

Following: "(a)"

Insert: "with the permission of the supervising dentist,"

Strike: ";

4. Page 1, line 16.

Strike: "(b) practice"

Renumber: subsequent subsection

5. Page 1, line 29.

Following: "means"

Insert: ": (i)"

Strike: "hospitals;"

Insert: "federally qualified health centers; federally funded community health centers, migrant health care centers, or programs for health services for the homeless established pursuant to the Public Health Service Act, 42 U.S.C. 254b;"

6. Page 2, line 1.

Strike: "detention centers;"

7. Page 2, line 2.

Strike: "or" through "corrections"

8. Page 2, line 2 through line 4.

Following: "clinics" on line 2

Strike: remainder of line 2 through "persons" on line 4

9. Page 2.

Following: line 4

Insert: "(ii) other public health facilities and programs identified by the board under subsection (6); and"

10. Page 2, line 8.

Following: "hygienist"

Strike: "subject to"

Insert: "practicing under"

11. Page 2, line 10.

Strike: "preventative" through "agents"

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Insert: "fluoride"

Strike: "and smoothing"

12. Page 2, lines 10 and 11.

Following: "root" on line 10

Strike: remainder of line 10 through "curettage" on line 11

Insert: "planing"

13. Page 2, line 12.

Strike: "subject to"

Insert: "practicing under"

14. Page 2, line 15.

Strike: "subject to"

Insert: "practicing under"

Following: "provide"

Insert: ": (i)"

15. Page 2, line 17.

Following: "(4)"

Insert: "; and

(ii) treatment based upon medical and dental health guidelines adopted by rule by the board.

(5) (a) A dental hygienist practicing under public health supervision shall obtain a limited access permit from the board.

(b) The board shall adopt rules:

(i) defining the qualifications necessary to obtain a limited access permit; and

(ii) providing a process for obtaining a limited access permit.

(c) The provision of services under a limited access permit is limited to patients or residents of facilities or programs who, due to age, infirmity, disability, or financial constraints, are unable to receive regular dental care.

(6) The board may identify, by rule, other public health facilities and programs, in addition to those listed in subsection (3)(c), at which services under a limited access permit may be provided"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/10/2003

HB 17, introduced by Newman

HB 55, introduced by Facey

HB 101, introduced by Jent

HB 152, introduced by Fisher

HB 158, introduced by Haines

HB 178, introduced by Fritz

HB 203, introduced by A. Olson

HB 264, introduced by Gibson

HB 270, introduced by Bergren

HB 284, introduced by Gillan

HB 293, introduced by Smith

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HB 304, introduced by A. Olson
HB 325, introduced by Witt
HB 326, introduced by Newman
HB 333, introduced by Waitschies
HB 350, introduced by Cohenour
HB 353, introduced by Laszloffy
HB 369, introduced by Younkin
HB 385, introduced by Fritz
HB 414, introduced by Balyeat

MOTIONS

HB 114 - Senator Thomas moved consideration of **HB 114** be passed for the day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 368, introduced by Bohlinger, Forrester, Glaser, Keenan, Laible, Raser, F. Thomas, referred to Local Government.
SB 369, introduced by Story, Brueggeman, Esp, Glaser, Keenan, Laible, McGee, F. Thomas, referred to Education and Cultural Resources.
SB 370, introduced by Gebhardt, referred to Local Government.
SB 371, introduced by Stonington, referred to Taxation.
SB 372, introduced by Laible, referred to Local Government.
SB 373, introduced by Laible, referred to Education and Cultural Resources.
SB 374, introduced by Laible, referred to State Administration.
SB 375, introduced by Elliott, referred to Natural Resources.
SB 376, introduced by Elliott, Cohenour, referred to Taxation.
SB 377, introduced by Mahlum, referred to Business and Labor.
SB 378, introduced by Kitzenberg, referred to Taxation.
SB 379, introduced by Cobb, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Ellingson in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 47 - Senator Bales moved **HB 47** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, Cromley, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Stapleton, Stonington, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 34

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Nays: Anderson, Bohlinger, Butcher, Curtiss, Esp, Johnson, Laible, Mangan, Roush, Sprague, Squires, Story, Tester.
Total 13

Absent or not voting: Cooney.
Total 1

Excused: Elliott, Toole.
Total 2

HB 88 - Senator Black moved **HB 88** be concurred in. Motion carried unanimously.

HB 96 - Senator Harrington moved **HB 96** be concurred in. Motion carried unanimously.

HB 115 - Senator Cobb moved **HB 115** be concurred in. Motion carried unanimously.

HB 143 - Senator Cobb moved **HB 143** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Ellingson moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

SB 249 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 36

Nays: Bohlinger, Cromley, Ellingson, Elliott, Hansen, Johnson, Mangan, Nelson, O'Neil, Squires, Stonington, Story, Tester.
Total 13

Paired: Thomas, Aye; Elliott, No.

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

MOTIONS

SB 218 - Senator Grimes moved **SB 218** be taken from the Judiciary Committee and rereferred to the committee on Finance and Claims. Motion carried.

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ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, February 12, 2003. Motion carried.

Senate adjourned at 1:34 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-FIRST LEGISLATIVE DAY**

Helena, Montana
February 12, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Elliott and Toole, excused. Quorum present.

The presiding officer has authenticated the daily journal for the thirtieth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 368, SB 369, SB 370, SB 371, SB 372, SB 373, SB 374, SB 375, SB 376, SB 377, SB 378, SB 379.**

Correctly engrossed: **SB 190, SB 281, SB 283.**

BUSINESS AND LABOR (Mahlum, Chairman):
SB 198, introduced bill, be amended as follows:

2/12/2003

1. Title, page 1, line 4.

Strike: "FACILITIES"

Insert: "TOWERS"

2. Title, page 1, line 5.

Following: "CARRIER"

Insert: ", "MODIFICATION", "

3. Title, page 1, lines 6 through 8.

Strike: "FACILITY" on line 6

Insert: "TOWER"

Following: ";" on line 6

Strike: remainder of line 6 through "FACILITY;" on line 8

4. Title, page 1, line 9.

Following: "REQUIREMENTS;"

Strike: "AUTHORIZING" through "PERMITS;"

5. Title, page 1, line 10.

Strike: "SECTIONS"

Insert: "SECTION"

Strike: "AND 76-1-106"

6. Page 1, line 26.

Following: line 25

Insert: "(5) "Modification" means a change or alteration that increases the allowable height of a wireless telecommunications tower."

Renumber: subsequent subsections

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7. Page 3, line 2.

Following: "including"

Strike: "wire-based and"

8. Page 3, lines 6 through 16.

Strike: "facility" on line 6

Insert: "tower"

Following: "means" on line 6

Strike: ";" through "(i)" on line 7

Following: "tower" on line 7

Insert: "that exceeds 60 feet in height and that is"

Following: "signals" on line 7

Strike: ";" on line 7 through "stations" on line 16

9. Page 3, line 17.

Strike: "facilities"

Insert: "towers"

10. Page 3, line 18.

Following: "153"

Insert: "or towers used to communicate solely within or between utilities"

11. Page 3, line 20 through page 4, line 30.

Strike: sections 2 and 3 in their entirety

Renumber: subsequent sections

12. Page 5, line 3.

Strike: "facility"

Insert: "tower"

13. Page 5, line 6.

Strike: "facility"

Insert: "tower"

14. Page 5, line 7.

Strike: "facilities"

Insert: "towers"

15. Page 5, line 8.

Strike: "facility"

Insert: "tower"

16. Page 5, line 10.

Strike: "facility"

Insert: "tower"

17. Page 5, line 11.

Following: "(2)"

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Strike: "The" through "subsection (1)"

Insert: "In addition to the notification of intent required in subsection (1), a personal wireless telecommunications carrier"

18. Page 5, line 14.

Strike: "facility" in two places

Insert: "tower" in two places

19. Page 5, line 15.

Strike: "adjacent"

Insert: "adjoining"

20. Page 5, line 20 through line 23.

Strike: sections 5 in its entirety

Renumber: subsequent sections

21. Page 5, line 25.

Strike: "[Sections 3 through 5] are"

Insert: "[Section 2] is"

22. Page 5, line 27.

Strike: "[sections 3 through 5]"

Insert: "[section 2]"

23. Page 5, line 29 through line 30.

Strike: section 7 in its entirety

24. Page 6, line 4.

Strike: "facility"

Insert: "tower"

And, as amended, do pass. Report adopted.

SB 334, introduced bill, be amended as follows:

1. Title, page 1, lines 5 through 7.

Following: "STATE;" on line 5

Strike: remainder of line 5 through "THAT A" on line 6

Insert: "REQUIRING THAT A VACANCY IN THE ONE REQUIRED REPRESENTATIVE"

Following: "DAYS" on line 6

Strike: remainder of line 6 through "VACATED" on line 7

2. Page 1, line 19.

Following: line 18

Insert: "(3) If a vacancy occurs in the one required position, the vendor shall fill the position within 60 days after the vacancy occurs."

And, as amended, do pass. Report adopted.

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ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman): 2/12/2003
SB 247, do pass. Report adopted.

FISH AND GAME (Sprague, Chairman): 2/12/2003
SB 209, do pass. Report adopted.
HB 79, be concurred in. Report adopted.
HB 248, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman): 2/11/2003
SB 298, introduced bill, be amended as follows:

1. Title, line 5 through line 6.

Following: "AGENCIES;" on line 5

Strike: remainder of line 5 through "OFFICE;" on line 6

2. Page 1, line 12.

Following: "(1)"

Strike: "(a) The"

Insert: "Except as provided in subsection (2), the"

3. Page 1, line 14.

Strike: "(b)"

4. Page 1, line 16 through line 17.

Strike: subsection (c) in its entirety

Insert: "(2) The proper place of trial for an action that challenges the issuance or denial of a permit or certificate by a state agency is in the county in which the permitted or authorized activity would occur. If an activity would occur in more than one county, any county in which the activity would occur is a proper place of trial."

5. Page 1, line 18.

Strike: "(2)"

Insert: "(3)"

And, as amended, do pass. Report adopted.

SB 328, introduced bill, be amended as follows:

1. Title, line 6.

Following: "MEANS OF A"

Insert: "NAME-BASED OR"

2. Page 1, line 15.

Following: "means of a"

Insert: "name-based or"

3. Page 1, line 30.

Strike: "includes"

Insert: "include"

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4. Page 2, line 1.

Strike: "includes"

Insert: "include"

And, as amended, do pass. Report adopted.

SB 329, introduced bill, be amended as follows:

1. Title, line 7.

Following: "ACADEMY;"

Insert: "EXTENDING THE TIME PERIOD FOR RECEIVING TRAINING FROM 6 MONTHS TO 1 YEAR FOR PROBATION AND PAROLE OFFICERS, CORRECTIONS OFFICERS, JUVENILE DETENTION AND JUVENILE CORRECTIONS OFFICERS, AND COMMERCIAL VEHICLE INSPECTORS;"

2. Page 2, line 15.

Strike: "6 months"

Insert: "1 year"

3. Page 2, line 14.

Following: "officer,"

Insert: "juvenile detention or juvenile corrections officer,"

4. Page 2, line 17.

Following: "officer's,"

Insert: "juvenile detention or juvenile corrections officer's,"

And, as amended, do pass. Report adopted.

HB 116, be amended as follows:

1. Page 1, line 20.

Following: "commission"

Insert: ", not to exceed 18,"

2. Page 1, line 22 through page 2, line 10.

Strike: subsections (a) through (r) in their entirety

Insert: "(a) representatives from state departments that are involved in issues of domestic abuse;
(b) representatives of private organizations that are involved in issues of domestic abuse;
(c) medical and mental health care providers who are involved in issues of domestic abuse;
(d) representatives from law enforcement, the judiciary, and the state bar of Montana;
(e) representatives of Montana Indian tribes;
(f) other concerned citizens; and
(g) a member of the legislature who serves on either the house judiciary committee or the senate judiciary committee."

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

2/12/2003

SB 112, introduced bill, be amended as follows:

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1. Page 1, line 21 through line 23.

Strike: line 21 through line 23 in their entirety

Insert: "(a) fund transfers pursuant to 15-1-122(3)(g);"

Renumber: subsequent subsections

2. Page 1, line 29 through page 2, line 1.

Strike: "A" on page 1, line 29 through "section." on page 2, line 1

3. Page 4, line 11.

Following: "(i)"

Strike: "the 50-cent vessel"

Insert: "50 cents a year for each vessel subject to the"

4. Page 4, line 12.

Following: "(ii)"

Strike: "the 50-cent snowmobile"

Insert: "50 cents a year for each snowmobile subject to the"

Following: "23-2-616(3);"

Insert: "and"

5. Page 4, line 13.

Following: "(iii)"

Strike: "the 50-cent off-highway vehicle"

Insert: "50 cents a year for each off-highway vehicle subject to the"

6. Page 4, line 13 through line 14.

Following: "23-2-803"

Strike: remainder of line 13 through "87-2-202" on line 14

7. Page 5, line 4.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

8. Page 5, line 6 through line 7.

Following: "surcharge" on line 6

Strike: remainder of line 6 through "purposes" on line 7

9. Page 5, line 9.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

10. Page 5, line 13.

Following: "surcharge" on line 13

Strike: "designated to the account in [section 1] for search and rescue purposes"

11. Page 5, line 15 through line 16.

Following: "surcharge" on line 15

Strike: remainder of line 15 through "purposes" on line 16

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12. Page 5, line 18.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

13. Page 5, line 22.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

14. Page 5, line 24 through line 25.

Following: "surcharge" on line 24

Strike: remainder of line 24 through "purposes" on line 25

15. Page 5, line 27.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

16. Page 6, line 1 through line 2.

Following: "fee" on line 1

Strike: remainder of line 1 through "purposes" on line 2

17. Page 6, line 4 through line 5.

Following: "fee" on line 4

Strike: remainder of line 4 through "purposes" on line 5

18. Page 6, line 7 through line 8.

Following: "fee" on line 7

Strike: remainder of line 7 through "purposes" on line 8

19. Page 6, line 11 through line 12.

Following: "fee" on line 11

Strike: remainder of line 11 through "purposes" on line 12

20. Page 6, line 14 through line 15.

Following: "fee" on line 14

Strike: remainder of line 14 through "purposes" on line 15

21. Page 6, line 17 through line 18.

Following: "fee" on line 17

Strike: remainder of line 17 through "purposes" on line 18

22. Page 6, line 21.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

23. Page 6, line 23.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

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24. Page 7, line 1 through line 2.

Following: "surcharge" on line 1

Strike: remainder of line 1 through "purposes" on line 2

25. Page 7, line 4.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

26. Page 7, line 15.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

27. Page 8, line 14.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

28. Page 9, line 8.

Following: "surcharge"

Strike: "designated to the account in [section 1] for search and rescue purposes"

29. Page 9, line 9 through line 10.

Following: "surcharge" on line 9

Strike: remainder of line 9 through "purposes" on line 10

30. Page 11, line 5.

Following: "in the"

Strike: "state general fund"

Insert: "search and rescue account provided for in [section 1]"

And, as amended, do pass. Report adopted.

SB 168, do pass. Report adopted.

SB 191, introduced bill, be amended as follows:

1. Page 4, line 23.

Strike: "it has not been determined"

Insert: "the investigator was unable to determine by a preponderance of the evidence"

2. Page 6, line 23 through line 29.

Strike: subsection (c) in its entirety

Insert: "(c) (i) If the report is unsubstantiated, the department and the social worker who conducted the investigation into the circumstances surrounding the initial allegations of abuse or neglect shall destroy all of the records, except for medical records, concerning the unsubstantiated report and the investigation within 30 days after the end of the 3-year period starting from the date the report was determined to be unsubstantiated, unless:

(A) there had been a previous or there is a subsequent substantiated report concerning the same person; or

(B) an order has been issued under this chapter based on the circumstances surrounding the initial allegations.

(ii) A person who is the subject of an unsubstantiated report that was made prior to [the effective date of this act] and after which a period of 3 years has elapsed without there being submitted a subsequent substantiated report or

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an order issued under this chapter based on the circumstances surrounding the initial allegations may request that the department destroy all of the records concerning the unsubstantiated report as provided in subsection (5)(c)(i)."

And, as amended, do pass. Report adopted.

SB 246, introduced bill, be amended as follows:

1. Title, lines 5 and 6.

Strike: "PROVIDING" on line 5 through "METHOD" on line 6

Insert: "REQUIRING A BOARD OF COUNTY COMMISSIONERS TO ALTER THE BOUNDARIES OF A FIRE SERVICE AREA TO EXCLUDE AN AREA THAT IS ANNEXED; REQUIRING THAT INFORMATION BE PROVIDED TO AN ANNEXING MUNICIPALITY"

2. Title, line 8 through line 10.

Strike: "DIRECTING" on line 8 through "ANNEXATION;" on line 10

3. Title, line 11.

Strike: "7-2-4716, 7-2-4732, 7-2-4736,"

Following: "7-33-2401"

Strike: ", "

Insert: "AND"

Strike: "AND 15-10-420,"

4. Page 1, line 15 through page 3, line 14.

Strike: section 1 through section 3 in their entirety

Renumber: subsequent sections

5. Page 4, line 8.

Strike: "same"

Strike: "required for the creation of a fire service area"

Insert: "provided in subsection (2)"

6. Page 4, line 10.

Following: "town"

Insert: ", using the procedures provided in subsection (2)"

7. Page 5, lines 2 and 3.

Strike: "The" on line 2 through "assessment." on line 3

8. Page 5, line 5 through page 7, line 4.

Strike: section 6 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 288, introduced bill, be amended as follows:

1. Title, line 4 through line 5.

Strike: "INCREASING THE NUMBER OF"

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Insert: "ALLOWING TWO TO FOUR"

Strike: "FROM TWO TO FOUR" on line 5

2. Title, line 5 through line 6.

Strike: "AND" on line 5 through "CITY-COUNTY" on line 6

3. Page 2, line 22.

Following: "two"

Insert: "two to"

4. Page 2, line 23.

Following: "one" in both places

Insert: "one or" in both places

5. Page 3, line 7.

Strike: "and"

Insert: "but not to a county that has adopted"

And, as amended, do pass. Report adopted.

SB 325, do pass. Report adopted.

HB 94, be amended as follows:

1. Title, line 8.

Strike: "ITEM" in both places

Insert: "MATTER" in both places

2. Title, line 9.

Following: "AGENDA"

Insert: "AND PUBLIC COMMENT HAS BEEN ALLOWED"

3. Page 1, line 22.

Strike: "item"

Insert: "matter"

4. Page 1, line 23.

Strike: "item"

Insert: "matter"

Following: "agenda"

Insert: "and public comment has been allowed on that matter"

And, as amended, be concurred in. Report adopted.

HB 238, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

2/12/2003

SB 320, introduced bill, be amended as follows:

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1. Page 1, line 20.

Following: "value"

Insert: "to account for a loss of taxable value resulting from a statutory change"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/11/2003

HB 201, introduced by Jent

HB 206, introduced by Younkin

HB 303, introduced by A. Olson

HB 378, introduced by Small-Eastman

HB 420, introduced by Lake

MOTIONS

SB 201 - Senator Ryan moved **SB 201** be taken from the committee on Business and Labor and rereferred to the committee on Education and Cultural Resources. Motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Stonington, Tester, Tropila, Wheat.

Total 19

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Absent or not voting: None.

Total 0

Excused: Elliott, Toole.

Total 2

SB 373 - Senator Liable moved **SB 373** be taken from the committee on Education and Cultural Resources and rereferred to the committee on Judiciary. Motion carried.

HB 114 - Senator Thomas moved consideration of **HB 114** be passed for the day due to the absence of Senator Toole. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 380, introduced by Bales, referred to Education and Cultural Resources.

SB 381, introduced by Keenan, referred to Natural Resources.

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SB 382, introduced by Butcher, referred to Education and Cultural Resources.

SB 383, introduced by Bales, referred to Agriculture, Livestock and Irrigation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 18, introduced by Harrington, Newman, Cooney, Cyr, Ellingson, McCarthy, Nelson, Schmidt, Shea, Tester, Weiss, referred to Public Health, Welfare and Safety.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gebhardt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 241 - Senator Shea moved **SB 241** do pass. Motion carried unanimously.

SB 268 - Senator Shea moved **SB 268** do pass. Motion **failed** as follows:

Yeas: Anderson, Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Gebhardt, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Taylor, Tropila, Wheat.

Total 24

Nays: Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, McGee, McNutt, Nelson, O'Neil, Perry, Stapleton, Story, Tash, Tester, Thomas, Zook, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Elliott, Toole.

Total 2

SB 268 - Senator Thomas moved **SB 268** be **indefinitely postponed**. After discussion, Senator Thomas **withdrew** his motion.

HB 93 - Senator Cocchiarella moved **HB 93** be concurred in. Motion carried unanimously.

HB 168 - Senator Johnson moved **HB 168** be concurred in. Motion carried unanimously.

HB 208 - Senator Wheat moved **HB 208** be concurred in. Motion carried unanimously.

HB 209 - Senator Wheat moved **HB 209** be concurred in. Motion carried unanimously.

HB 233 - Senator Anderson moved **HB 233** be concurred in. Motion carried unanimously.

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Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Gebhardt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 47 concurred in as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Anderson, Butcher, Curtiss, Esp, Johnson.
Total 5

Absent or not voting: None.
Total 0

Excused: Elliott, Toole.
Total 2

HB 88 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Toole.
Total 2

HB 96 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

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Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Elliott, Toole.

Total 2

HB 115 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Elliott, Toole.

Total 2

HB 143 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Elliott, Toole.

Total 2

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

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Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, February 13, 2003. Motion carried.

Senate adjourned at 2:30 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-SECOND LEGISLATIVE DAY**

Helena, Montana
February 13, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Elliott and Mangan, excused. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-first legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 380, SB 381, SB 382, SB 383, SJR 18.**

Correctly engrossed: **SB 112, SB 191,198, SB 246, SB 288, SB 298, SB 320, SB 328, SB 329, SB 334, HB 94, HB 116.**

FINANCE AND CLAIMS (Zook, Chairman):

2/13/2003

SB 89, do pass. Report adopted.

SB 160, do pass. Report adopted.

HB 217, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

2/13/2003

HB 22, be concurred in. Report adopted.

HB 112, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

2/11/2003

SB 311, introduced bill, be amended as follows:

1. Page 1, line 21.

Following: "is"

Strike: ", "

2. Page 1, line 22.

Following: "void"

Insert: ", "

3. Page 1, line 23 through line 25.

Strike: subsection (5) in its entirety

Insert: "(5) This section does not apply to:

(a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to Title 30, chapter 14, part 4;

(b) other information that is confidential under state or federal law; or

(c) health care providers:

(i) developing or using professionally monitored experimental or investigational procedures; or

(ii) providing care and treatment to patients in accordance with the applicable professional standards of care."

And, as amended, do pass. Report adopted.

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NATURAL RESOURCES (Tash, Chairman):
SB 300, introduced bill, be amended as follows:

2/13/2003

1. Page 1, line 21.
Strike: "100"
Insert: "20"

2. Page 1, line 30.
Strike: "100"
Insert: "20"

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):
HB 51, be concurred in. Report adopted.
HB 121, be concurred in. Report adopted.

2/13/2003

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/12/2003

HB 61, introduced by Laslovich
HB 129, introduced by Gutsche
HB 184, introduced by Wilson
HB 226, introduced by Gillan
HB 445, introduced by Pattison
HB 448, introduced by Harris

House joint resolutions passed and transmitted to the Senate for concurrence:

2/12/2003

HJR 11, introduced by Smith
HJR 12, introduced by Fuchs
HJR 14, introduced by Bixby

MOTIONS

SB 268 - Senator Mahlum moved **SB 268** be taken from the second reading board this legislative day and rereferred to the committee on Business and Labor. Motion carried.

HB 180 - Senator Thomas moved **HB 180** be taken from the committee on Finance and Claims and rereferred to the committee on Public Health, Welfare and Safety. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 384, introduced by Mangan, Mendenhall, Mood, Parker, F. Thomas, referred to Local Government.
SB 385, introduced by Mangan, McKenney, referred to Business and Labor.
SB 386, introduced by Gebhardt, Forrester, Shea, Taylor, referred to Energy and Telecommunications.

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SB 387, introduced by Cobb, referred to Energy and Telecommunications.

SB 388, introduced by Tash, referred to Judiciary.

SB 389, introduced by McGee, F. Thomas, referred to Judiciary.

SB 390, introduced by Mangan, referred to Business and Labor.

SB 391, introduced by Mangan, referred to Business and Labor.

SB 392, introduced by Bales, J. Andersen, Barrett, E. Clark, Curtiss, Devlin, Hedges, Lambert, A. Olson, Peterson, Ripley, Rome, Ross, Steinbeisser, Stoker, Tash, Taylor, Witt, Zook, referred to Fish and Game.

SB 393, introduced by Kitzenberg, referred to Local Government.

SB 394, introduced by Perry, Cohenour, S. Anderson, Barkus, Black, Bohlinger, R. Brown, Fuchs, Gebhardt, Glaser, Grimes, Keenan, Laible, Lewis, McGee, McNutt, A. Olson, Ripley, Shea, Sprague, F. Thomas, Zook, referred to Judiciary.

SB 395, introduced by Perry, J. Andersen, S. Anderson, Balyeat, Barkus, Bookout-Reinicke, Brueggeman, Cohenour, Curtiss, Everett, Fuchs, Gallus, Gebhardt, Haines, Hawk, Hurwitz, Jackson, Kasten, Laible, Lake, Lambert, Laszloffy, Lawson, Lewis, Maedje, McGee, Mendenhall, Mood, A. Olson, B. Olson, Pattison, Rice, Ripley, Ross, Sales, Schrumpf, Sinrud, Steinbeisser, Stoker, Stonington, B. Thomas, Wagman, Witt, referred to Fish and Game.

SB 396, introduced by Perry, referred to Local Government.

SB 397, introduced by Curtiss, J. Andersen, Bales, D. Brown, Butcher, Kasten, Laible, Maedje, Perry, Rice, F. Thomas, referred to Judiciary.

SB 398, introduced by Cromley (by request of the Senate Judiciary Standing Committee), referred to Judiciary.

SB 399, introduced by Bohlinger, Bookout-Reinicke, referred to Local Government.

SB 400, introduced by Toole, Facey, referred to Judiciary.

SB 401, introduced by Wheat, Roush, Shea, Sprague (by request of the Senate State Administration Standing Committee), referred to State Administration.

SB 402, introduced by Cocchiarella, Younkin, Bergren, Bohlinger, Brueggeman, Harris, Keenan, Malcolm, Mangan, Matthews, Mood, Musgrove, Nelson, Roush, D. Ryan, Sprague, Tash, Tester, F. Thomas, Wagman, referred to Business and Labor.

SB 403, introduced by Barkus, S. Anderson, Black, Sinrud, referred to Fish and Game.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 241 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Elliott, Mangan.

Total 2

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HB 93 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: Elliott, Mangan.
Total 2

HB 168 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Mangan.
Total 2

HB 208 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Elliott, Mangan.
Total 2

HB 209 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Mangan.
Total 2

HB 233 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Mangan.
Total 2

SPECIAL ORDERS OF THE DAY

Consul General Moon of the Republic of Korea was introduced to the Senate. He acknowledged the seven astronauts that recently perished, and gave a short speech to the Senate. President Keenan also thanked other members of the Korean delegation for their presence in the Senate and welcomed them to the State of Montana.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

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Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 114 - Senator D. Ryan moved **HB 114** be concurred in. Motion carried unanimously.

SB 168 - Senator Stonington moved **SB 168** do pass. Motion carried unanimously.

SB 190 - Senator Bohlinger moved **SB 190**, second reading copy, be amended as follows :

1. Page 2, line 7.

Strike: "schools;"

2. Page 2, line 14 through line 15.

Following: "facility" on line 14

Strike: "that" on line 14 through "staff" on line 15

Amendment **adopted** unanimously.

SB 190 - Senator Bohlinger moved **SB 190**, as amended, do pass. Motion carried with Senators Grimes and Kitzenberg voting nay.

SB 209 - Senator Tester moved **SB 209** do pass. Motion carried unanimously.

SB 281 - Senator Butcher moved **SB 281** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Toole, Tropila, Zook, Mr. President.
Total 39

Nays: Cobb, Cocchiarella, Grimes, Nelson, O'Neil, Ryan, Thomas, Wheat.
Total 8

Absent or not voting: Stonington.
Total 1

Excused: Elliott, Mangan.
Total 2

SB 283 - Senator O'Neil moved **SB 283**, second reading copy, be amended as follows :

1. Title, line 4.

Strike: "CLARIFYING"

Insert: "REVISING"

2. Page 1, line 23.

Following: "petitioner"

Insert: "or the respondent"

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3. Page 1, line 24.

Following: "action."

Insert: "Upon agreement of the parties, an action brought pursuant to Title 40, chapter 4, may be brought in any county."

Senator O'Neil further moved to **segregate** No. 1 and No. 2 from No. 3, striking No. 3 of the amendment. **Numbers 1 and 2** of above amendment **adopted** unanimously.

SB 283 - Senator Wheat moved **SB 283**, as amended, do pass. Motion carried unanimously.

SB 325 - Senator McGee moved **SB 325** do pass. Motion carried unanimously.

HB 79 - Senator Barkus moved **HB 79** be concurred in. Motion carried unanimously.

HB 238 - Senator Story moved **HB 238** be concurred in. Motion carried unanimously.

HB 248 - Senator Barkus moved **HB 248** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, February 14, 2003. Motion carried.

Senate adjourned at 2:35 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-THIRD LEGISLATIVE DAY**

Helena, Montana
February 14, 2003

Senate Chambers
State Capitol

MOTIONS

Majority Leader Thomas moved that the Senate proceed to the House of Representatives for the purpose of receiving the State of Education Address, and further, that the Senate reconvene upon adjournment of the joint session. Motion carried.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Clark escorted the Senate into the House chamber.

Speaker Mood recognized President Keenan and yielded the chair to him.

Representative Brown moved the body resolve itself into a joint session for the purpose of receiving the State of Education Address from the Superintendent of Public Instruction, Linda McCulloch. Motion carried.

Representative Brown moved the President be authorized to appoint a committee of four to notify the Superintendent of Public Instruction that we are in joint session and ready to receive the State of Education Address. Motion carried.

The President appointed Senator Story, Senator Shea, Representative Schrupf and Representative Facey to escort the Superintendent of Public Instruction into the House chambers.

Sergeant-at-arms Cramer admitted the escort committee and Superintendent of Public Instruction, Linda McCulloch, into the House chamber.

Invocation was given by Pastor Jim Stumbo of the Helena Alliance Church, followed by the Pledge of Allegiance.

President Keenan welcomed Superintendent McCulloch, who gave the following address:

Good afternoon. I am happy to be here today. I want to thank President Keenan, Speaker Mood, Senator Tester and Representative Wanzenried for the opportunity to deliver the State of Education address that brings us together to focus on the future of Montana's children.

In addition, I'd like to recognize Governor Martz, and my other colleagues and friends in the Executive and Judicial branches of Montana government. And welcome to Allison Morrison, who has joined her father, our State Auditor.

Special thank you to my husband Bill for being here – my Valentine for 32 years.

I begin my address today with sincere words of thanks for the thousands of dedicated teachers, administrators, staff and trustees. You work tirelessly helping students learn and prepare for successful lives. Every day, your investment of time and love makes a difference in the lives of Montana's treasure — our children. Would all educators, staff or trustees in the audience, both in the gallery and on the floor, please stand?

One of those educators is Jay Erdie, Superintendent in Roundup who has been an educator for almost 40 years. I am pleased to announce that Jay will be bringing his experience and expertise to Helena as my new Deputy Superintendent. Jay, my sincere thanks.

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THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

Today I greet students, educators, and friends of education watching this address live. From Westby to Bonner and everywhere in between, OPI's video streaming technology makes this broadcast possible with the simple use of a personal computer.

Today's historic moment with technology is one small example of many changes taking place all around us. A lot has happened since I spoke two years ago. On September 11, 2001, our lives changed forever. We have all taken time since then to re-evaluate our priorities, how precious our families are, and how precious our children are.

In a single moment, educators across the country were called upon to help find answers to their student's grief and fear. Montana's educators rose to the challenge with compassion and dignity. Students wrote letters and poems, raised funds, and organized blood drives.

Fortunately, incidences of violence in Montana are rare. But we are not immune from the safety concerns we, as a nation, face. We are prepared. Crisis response plans are in place to help in the event of a tragedy. Montana's educators' role in healing and keeping communities together in a time of crisis is indispensable. We can't thank them enough.

I know it can sometimes be difficult to see children through the numbers, charts and graphs. That is why I have invited a special guest to join me today. Let me tell you a little bit about her. She is a fourth grader at Jefferson Elementary School here in Helena. She is studious, an adoring big sister, takes ballet lessons and sells me Girl Scout cookies. And like thousands of other students, she rides a bus to school.

When we have tea together, she keeps me in touch with what is going on in our schools, what we can do better and what we do very well. Today, she represents 150,000 Montana students in K-12. Please join me in welcoming my friend and neighbor, Ellie Tinsley, to the Montana Legislature.

Ellie represents our Montana students who rank among the top in the nation. For two years in a row, Montana students scored well above national averages in all grades and subject areas. Montana students in 8th grade nationally rank number 1 in Science and number 2 in Math. However, I am concerned that our high test scores are leveling. While other states that have significantly invested in education are seeing gains in their student scores, our scores aren't improving.

I am incredibly proud of our students. And I'm proud of parents, educators, and communities that support them. To the many communities across Montana who consistently vote to increase tax burdens that maintain quality public schools -- you need to know that our schools are preparing students, like Ellie and Allison, for the future.

I genuinely believe we all want the same thing for Montana's students. We want educated and caring children. We want informed, responsible citizens. We want our students to achieve their dreams and lead productive lives. And perhaps most importantly, we want our kids to believe they can stay, live and work in Montana.

Our commitment to our kids -- and to providing resources to help them succeed -- is about to be truly tested. We face a very real budget crisis. As a former legislator, I understand the difficult decisions that lay ahead. I also know as the State Superintendent and as a long time teacher, decisions made this legislative session will greatly affect our children's future.

There are those who would question our investment in education. I know:

When we invest in education, pre-school through college ... we build a stronger Montana for our children to live, work and raise a family.

When we invest in our children's education ... we build Montana's economy.

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THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

When we Invest in public schools ... we create an incentive for businesses to locate in Montana.

We must invest in our school kids today.

School budgets are stretched to the breaking point. Montana's school enrollment is declining, because of a decline in birth rates. State support is then reduced due to our current funding formula. If a school loses as few as 8 kids, the school essentially has lost revenue equal to a teacher's salary. But what happens when the classroom teacher is still needed?

The reality is, schools must make cuts to balance budgets. While the number of kids goes down, the school's operating budget does not drop in proportion. Many classroom costs, like utilities and building maintenance are fixed and ongoing.

Let me tell you what cuts to school budgets mean.

Classes will have more students, and our kids will get less personal attention in crucial early grades when kids are learning to read and write. At-risk kids will have fewer opportunities to keep them from dropping out of school.

Our young people will have limited vocational training to prepare them for the work force.

Students will have more out-of-date textbooks and library books, and our kids will have fewer class offerings: from music to math.

Each school is finding its own solutions. I'm constantly amazed at the sheer will of educators, schools boards, and parents to find creative ways to make ends meet. We have a responsibility to our children that cannot be ignored.

As a whole, Montana educators are aging. Many retire; some move out of the state or leave the profession. In addition, Montana schools are not able to compete with the enticing salaries and employment benefits that other states offer our new teacher education graduates. We literally do not have enough new teachers staying in Montana to fill the job openings.

Without qualified teachers to replace them, the high quality education offered by our schools is in jeopardy. We need long-term solutions to our shortage of educators.

I am proud of the positive steps the Office of Public Instruction has taken:

Our website helps teachers find jobs and schools find teachers. More than 1100 job openings are currently posted on our Montana Jobs for Teachers site.

We are in the final stages of creating an on-line educator license renewal system to eliminate the paper intensive process that exists today.

And a teacher internship program is in the works so teachers can more easily master new subject areas.

I am committed to finding solutions to our school funding problems. Working together with the education community, as State Superintendent, I proposed a school funding package last April. The package includes:

ANB averaging to help schools with a declining enrollment.

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Student loan repayments, and increased retirement benefits for teachers who teach 30 or more years to help schools recruit and retain highly qualified teachers.

A per-educator entitlement to create a new way to fund schools without relying on student count.

Increase in the basic and per ANB entitlements, and

Increase in special education funding.

This package reflects the full range of challenges facing schools.

I understand school funding increases will not happen without an increase in state revenues. An average week-long tourist visit to Montana generates only \$34 in taxes. Our neighbors in Wyoming collect \$122, and Utah \$239 for the same seven day period. I have advocated this session for tourists visiting Montana to pay their fair share for upkeep to our state, through a car rental tax and an increase in the bed tax. To prevent the decline of our public school system, we must identify long-term revenues that invest in education.

I have the honor of being elected by the people of Montana to make sure our state is providing services their children and grandchildren need. I am responsible for ensuring teachers are qualified, schools are accountable, and funds are distributed to schools, on time, every time, and much, much more. I take these responsibilities very seriously.

This past year I visited many Montana schools and communities traveling in a yellow school bus along with members of my staff. I wanted to know how we could better deliver services and resources to Montana schools. Yes, the bus seats are still hard. But the travel is safe and reliable in all weather. The Yellow School Bus Tour was an opportunity to hear firsthand the strengths and challenges facing our public schools.

Here is a snapshot of a small part of what we learned:

Schools are the heart and soul of Montana communities. They serve as the hub of activity for local sports, arts and community events.

Pride extends everywhere in our schools and communities. Classrooms are full of students deeply immersed in learning. Parents are ready to lend "helping hands" in the classroom.

Our educators are community leaders.

Retired senior citizens are actively volunteering their time and talents to make a difference in children's lives.

Kids in our small and medium size schools need and deserve the same opportunities as kids in larger cities.

School and business partnerships are strong. Businesses support school-to-work partnerships, loan their employees to volunteer in schools and frequently provide needed resources and support.

Montana's economy lays front and center in school concerns. Nearly one quarter of all children in our state are from families living below the poverty level.

Every school is unique. We were grateful for the opportunity to dine on buffalo stew, learn traditional Indian dancing and drumming and hand games.

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The very best way to learn the strengths and challenges of K-12 education is to spend time in your local school. They will be honored to have you visit.

Today is "I love to read day" in Montana. There is no issue closer to my heart than reading and literacy. We know that if a child is not reading at grade level by the end of third grade, it is very difficult for them to catch up. I'm proud that Montana children rank high in the nation for reading, but too many children are still left behind.

In response, I launched a Montana Literacy Initiative. This summer will be our third Literacy Summit to bring together parents, educators, community and business leaders, and higher education to focus on the importance of literacy.

Montana responded to these summits with renewed energy and commitment to improve reading instruction for all our students. I pledge to continue these efforts!

We must address the challenges facing American Indian students in Montana. Thanks to Representative Juneau's leadership in research, we can no longer ignore the facts -- Montana's American Indian students drop out of school at a rate more than three times that of non-Indian students.

A generation of young men and women are left with little prospect for a future that an education can provide. It is expensive for Montana to support school dropouts. It is more expensive for our state to lose the potential of our youth.

I am committed to finding solutions. The Office of Public Instruction competed for and received three federal grants to invest in American Indian students.

Through a Reading Excellence Act grant, we now fund 30 schools to help them implement successful reading strategies for their students, of which nearly half are American Indian.

A federal school dropout grant is funding six school districts in Box Elder, Browning, Heart Butte, Lame Deer, Poplar and Rocky Boy to identify community strategies that will help their youth stay in school. We are also developing a statewide dropout plan.

We know that students drop out of school for many reasons. A character education grant helps schools create a positive, respectful school setting that promotes kids staying in school.

All Montana students deserve the opportunity to understand the rich American Indian culture and history in Montana. I commend Representative Norma Bixby for her dedication to obtain funds so all Montana students and schools can understand the culture and heritage of Montana's Indian people. Without financial support, our Constitutional promise of "Indian Education for All" will remain only a paper promise.

One year ago, President Bush signed into law his No Child Left Behind Act. This federal law places a high priority on education and a commitment to educate all children. But it comes with extensive and expensive accountability and state and local responsibilities. These have created new challenges, especially to rural states. The good news is this new federal law brings resources for Montana's K-12 public education system. BUT these resources come with many requirements. For example, this federal law requires much more testing of our students than is currently required by our Montana Board of Public Education. Student assessment decisions should be left to individual states.

When student test scores do not improve enough, President Bush's No Child Left Behind law requires the state to take actions regarding a school's curriculum and staffing. This greatly concerns me, as it does local school trustees. While being accountable is a good thing, we have always believed that decisions should be made at the local level. Those beliefs have served us well.

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These are just a couple of my concerns. We will need to work together throughout the coming years to make this new federal law beneficial to all of Montana's students.

In the past 50 years science and technology has radically changed our lifestyle and economy. It used to be simple to look under the hood of your car to figure out what was wrong. Not any more. Today's specialized diagnostic equipment is essential to root out computer-based engine solutions. Gone is the day that all you needed was a toolbox with a couple of wrenches.

Since 1950, the demand for skilled labor has more than tripled. Businesses now expect a workforce to have a set of skills that were unimaginable even 30 years ago. Think about it, teachers prepare students for career options that do not even exist today.

Education will prepare our children and grandchildren for this new century. Education allows them to compete in a world where all sectors of the economy – from microchips to mining – depend on high tech skills and training.

Education is the engine that drives economic development. Businesses will absolutely not locate in Montana if we do not provide a well-educated workforce, and a place where they will want their own children to go to school. Education is the key to moving Montana's economy forward.

I have great faith in the collective commitment of Montana's parents, educators, school staff, school boards, senior citizens, business partners and community members. Together we will invest in building a bright future for our children.

We Montanans can do whatever we put our minds to. Let me tell you about a very special senior citizen who didn't let anything stop him from making his dreams a reality.

This gentleman, a retired Bonner millworker, began volunteering many years ago at the local elementary school. The students already knew him as his barbecue grill fed many hamburgers for years to the neighborhood kids. He helped students, kindergarten through 8th grade, with their reading skills and learning to use the computer. After a number of years, the 8th grade class asked him to be their graduation speaker. He said he couldn't possibly speak in front of all those people. Yet, it nagged at him -- he had encouraged the kids to reach for high goals. To be a better role model, eventually he agreed to be the speaker. It was the best graduation speech I've ever heard.

Later we learned that he had dropped out of college in 1948, during a required speech class. And he often thought about not finishing his education. So, 50 years after dropping out of college, he enrolled in a speech class and returned to the University of Montana. He passed, took more classes, and then he enrolled in the teacher education program.

Today, at 75 years young, he is finishing up his last classes and will do his student teaching next school year. Help me welcome an inspiration to education, my friend Mr. Arnold "ODE" Odegard. Please stand up and be recognized, Ode.

Ode is an example of an amazing talent pool Montana has in its school volunteers, our educators and our emerging new teachers. Without a doubt, "Ode" deserves our deep appreciation for his investment in Montana's children. Just seeing both Ellie and Ode side by side reminds me what Montana is really all about, generations working together for a better future for our children.

I'd like to thank the kids watching this on the Internet. Knowing you are out there helped me focus my thoughts and keep my priorities straight. Perhaps, that is what Montanans can ask of all of us over the remainder of this session. To remember our children are listening to the priorities we set. The decisions we make will shape their lives.

Today's students will become tomorrow's business, spiritual, community and school leaders. They will also become Montana's legislators, governors, judges and state superintendents. Montana students are our greatest treasure; when

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we invest in them, there is no telling where they can take this state.

On behalf of Montana's 150,000 school children and all who work on behalf of public education in our state, I thank you for your time today and your interest in Montana's public schools. My door is always open and I look forward to your visit.

President Keenan thanked Superintendent McCulloch for her address, and requested the committee to escort Superintendent McCulloch and dignitaries from the House chambers.

Representative Brown moved the joint session of the 58th Legislature, convened to receive the State of Education Address, be adjourned. Motion carried.

Joint session adjourned at 1:42 p.m.

Senate convened at 1:45 p.m.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-second legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 384, SB 385, SB 386, SB 387, SB 388, SB 389, SB 390, SB 391, SB 392, SB 393, SB 394, SB 395, SB 396, SB 397, SB 398, SB 399, SB 400, SB 401, SB 402, SB 403.**

Correctly engrossed: **SB 190, SB 283, SB 300, SB 311.**

BUSINESS AND LABOR (Mahlum, Chairman):

2/13/2003

SB 273, do pass. Report adopted.

SB 292, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "STUDENT"

2. Page 1, line 14.

Strike: "student"

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

2/13/2003

SB 259, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/14/2003

SB 62, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "ATTORNEY GENERAL"

Insert: "DEPARTMENT OF ADMINISTRATION"

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2. Title, page 1, line 10 through line 12.

Strike: "CREATING" on line 10 through "LIST;" on line 12

3. Page 1.

Following: line 15

Insert: "NEW SECTION. Section 1. Findings and purpose. (1) The legislature finds that there is a compelling state interest in limiting commercial telephone solicitation because:

(a) commercial telephone solicitation invades and disrupts the privacy and tranquility of Montana residences;
(b) Montanans depend on their telephones to access essential emergency services, and Montanans cannot realistically give up their telephones in order to prevent commercial telephone solicitation calls;

(c) commercial telephone solicitation calls often scare Montana residents and can endanger the well-being of infirm residents who often hurt themselves in the attempt to answer telephone solicitation calls;

(d) every year Montanans fall victim to telephone solicitation fraud and abuse; and

(e) Montanans pay for their own telephones, and Montanans should have the ability to decide who uses those telephones.

(2) The purpose of [sections 1 through 7] is to protect Montanans' health, safety, and welfare by limiting commercial telephone solicitation calls."

Renumber: subsequent sections

4. Page 1.

Following: line 20

Insert: "(2) "Department" means the department of administration provided for in 2-15-1001."

Renumber: subsequent subsections

5. Page 1, line 30 through page 2, line 3.

Strike: "an" on page 1, line 30 through "communication" on page 2, line 3

Insert: "a nonprofit entity"

6. Page 2, line 9.

Following: "person"

Insert: "or an employee of that person"

7. Page 2, line 15.

Strike: "attorney general"

Insert: "department"

8. Page 2, line 16.

Strike: "3"

Insert: "4"

9. Page 2, line 19.

Strike: "Attorney general"

Insert: "Department"

10. Page 2, line 20.

Strike: "attorney general"

Insert: "department"

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11. Page 2, line 22.

Strike: "attorney general"

Insert: "department"

12. Page 2, line 23.

Strike: "data base"

Insert: "database"

13. Page 2, line 25.

Strike: "attorney general"

Insert: "department"

14. Page 2, line 28.

Strike: "attorney general"

Insert: "department"

15. Page 2, line 29.

Strike: "attorney general"

Insert: "department"

16. Page 3, line 9.

Strike: "attorney general"

Insert: "department"

17. Page 3, line 10.

Strike: "the federal communications commission"

Insert: "an agency of the United States government"

18. Page 3, line 11 through line 12.

Strike: "pursuant" on line 11 through "227(c)(3)" on line 12

Strike: "attorney general" on line 12

Insert: "department"

19. Page 3, line 15.

Strike: "2"

Insert: "3"

20. Page 3, line 16.

Strike: "5"

Insert: "6"

21. Page 3, line 17.

Strike: "attorney general"

Insert: "department"

22. Page 3, line 28.

Strike: "attorney general"

Insert: "department"

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23. Page 3, line 29.

Strike: "attorney general"

Insert: "department"

24. Page 3, line 30.

Strike: "2 or 4"

Insert: "3 or 5"

25. Page 4, line 6.

Strike: "2 or 4"

Insert: "3 or 5"

26. Page 4, line 7.

Strike: "4"

Insert: "5"

27. Page 4, line 12.

Strike: "2 or 4"

Insert: "3 or 5"

28. Page 4, line 20.

Strike: "2 or 4"

Insert: "3 or 5"

29. Page 5, line 2.

Strike: "2 or 4"

Insert: "3 or 5"

30. Page 5, line 4 through line 17.

Strike: section 6 in its entirety

Renumber: subsequent sections

31. Page 5, line 21.

Strike: "office of the attorney general"

Insert: "department"

32. Page 5, line 23.

Strike: "attorney general"

Insert: "department"

Strike: "5"

Insert: "6"

And, as amended, do pass. Report adopted.

SB 316, introduced bill, be amended as follows:

1. Page 3, line 7.

Strike: "The"

Insert: "A"

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Following: "credit"

Insert: "for each distinct mining operation"

And, as amended, do pass. Report adopted.

SB 327, introduced bill, be amended as follows:

1. Title, line 9.

Following: "SERVICES;"

Insert: "PROHIBITING THE TRANSFER OF CUSTOMER LISTS FOR TELEPHONE SOLICITATION PURPOSES;"

2. Page 1.

Following: line 14

Insert: "NEW SECTION. Section 1. Findings and purpose. (1) The legislature finds that there is a compelling state interest in limiting commercial telephone solicitation because:

(a) commercial telephone solicitation invades and disrupts the privacy and tranquility of Montana residences;
(b) Montanans depend on their telephones to access essential emergency services, and Montanans cannot realistically give up their telephones in order to prevent commercial telephone solicitation calls;

(c) commercial telephone solicitation calls often scare Montana residents and can endanger the well-being of infirm residents who often hurt themselves in the attempt to answer telephone solicitation calls;

(d) every year Montanans fall victim to telephone solicitation fraud and abuse; and

(e) Montanans pay for their own telephones, and Montanans should have the ability to decide who uses those telephones.

(2) The purpose of [sections 1 through 7] is to protect Montanans' health, safety, and welfare by limiting commercial telephone solicitation calls."

Renumber: subsequent sections

3. Page 1, line 16.

Strike: "6"

Insert: "7"

4. Page 1, line 26.

Following: "include"

Insert: ": (a)"

Following: "law"

Insert: ";

(b) communications by or on behalf of any person or entity with whom a residential subscriber has had a business contact within the past 18 months or has a current business or personal relationship. The term "business contacts" does not include unsolicited:

(i) mailings;

(ii) telephone calls made in the 18 months prior to [effective date of this act]; or

(iii) e-mails originating from a business"

5. Page 2, line 1.

Strike: "attorney general"

Insert: "department"

Strike: "3"

Insert: "4"

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6. Page 2, line 11.

Strike: "6"

Insert: "7"

7. Page 2, line 25.

Strike: "2"

Insert: "3"

8. Page 2, line 26.

Strike: "5"

Insert: "6"

9. Page 2, line 28.

Following: "prohibited"

Insert: "-- transfer of customer list for telephone solicitation prohibited"

10. Page 3.

Following: line 3

Insert: "(3) A person or entity may not transfer its customer lists to an affiliate or subsidiary for telephone solicitation purposes."

11. Page 3, line 7.

Strike: "2 or 4"

Insert: "3 or 5"

12. Page 3, line 13.

Strike: "2 or 4"

Insert: "3 or 5"

13. Page 3, line 14.

Strike: "4"

Insert: "5"

14. Page 3, line 18.

Strike: "2 or 4"

Insert: "3 or 5"

15. Page 4, line 2.

Strike: "6"

Insert: "7"

16. Page 4, line 4.

Strike: "2 or 4"

Insert: "3 or 5"

17. Page 4, line 9.

Strike: "6"

Insert: "7"

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18. Page 4, line 11.

Strike: "5"

Insert: "6"

19. Page 4, line 14.

Strike: "6"

Insert: "7"

20. Page 4, line 16.

Strike: "6"

Insert: "7"

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

2/14/2003

SB 217, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "POUNDS;"

Insert: "ASSIGNING THE RESPONSIBILITY FOR USE OF CHILD SAFETY RESTRAINTS TO THE DRIVER;"

2. Title, page 1, line 10.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "61-9-420"

Insert: "AND 61-13-103"

3. Page 1, line 29.

Insert: "**Section 2.** Section 61-13-103, MCA, is amended to read:

"61-13-103. Seatbelt use required -- exceptions. (1) ~~No~~ A driver may not operate a motor vehicle upon a highway of the state of Montana unless each occupant of a designated seating position is wearing a properly adjusted and fastened seatbelt or, if 61-9-420 applies, is properly restrained in a child safety restraint.

(2) The provisions of this section do not apply to:

(a) an occupant of a motor vehicle who possesses a written statement from a licensed physician that ~~he~~ the occupant is unable to wear a seatbelt for medical reasons;

(b) an occupant of a motor vehicle in which all seatbelts are being used by other occupants;

(c) an operator of a motorcycle as defined in 61-1-105 or a motor-driven cycle as defined in 61-1-106;

(d) an occupant of a vehicle licensed as special mobile equipment as defined in 61-1-104;

~~(e) children subject to the provisions of 61-9-420; or~~

~~(f)(e)~~ an occupant who makes frequent stops with a motor vehicle ~~in his~~ during official job duties and who may be exempted by the department.

(3) The department may adopt rules to implement subsection ~~(2)(f)~~ (2)(e).

(4) The department or its agent may not require a driver who may be in violation of this section to stop except upon reasonable cause to believe that ~~he~~ the driver has violated another traffic regulation or that ~~his~~ the driver's vehicle is unsafe or not equipped as required by law."

And, as amended, do pass. Report adopted.

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SB 223, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "USE"

Insert: "NONUSE"

2. Title, page 1, lines 5 through 7.

Strike: "PROPERTY" on line 5 through "ACTION" on line 7

Insert: "DEATH OF THE DRIVER OR PASSENGERS FOR THE PURPOSE OF REDUCING OTHERWISE RECOVERABLE DAMAGES"

3. Page 1, line 12.

Strike: "admissible"

Insert: "of seatbelt nonuse -- what is admissible -- what is nonadmissible"

4. Page 1, lines 12 through 15.

Strike: "Evidence" through "action"

Insert: "With the exception of passengers who are incapacitated persons, as defined in 72-5-101, passengers under 18 years of age who have not been issued a driver's license, and occupants described in 61-13-103(2), an occupant who fails to use a properly adjusted and fastened seatbelt is negligent. Evidence of this negligence is admissible in any civil action for personal injury or death of an occupant to whom this section applies, but only for the purpose of reducing the occupant's recovery by an amount not to exceed 25% of recoverable damages. Except as otherwise provided in this section, failure to comply with 61-13-103 does not constitute negligence, and evidence of failure to comply with 61-13-103 is not admissible in any civil action"

And, as amended, do pass. Report adopted.

HB 80, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

2/7/2003

SB 25, introduced bill, be amended as follows:

1. Page 1, line 26.

Following: "facility"

Strike: "UNLESS THE COURT FINDS THAT THE YOUTH POSES A SIGNIFICANT DANGER TO THE COMMUNITY"

2. Page 4, line 21.

Following: "from a"

Strike: "mental disorder, as defined in 53-21-102"

Insert: "disorder in thought or mood so substantial that it impairs judgment, behavior, perceptions of reality, and the ability to cope with the ordinary demands of life"

And, as amended, do pass. Report adopted.

TAXATION (DePratu, Chairman):

2/13/2003

SB 138, do pass. Report adopted.

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SB 294, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "PROTEST;"

Insert: "PROVIDING THAT THE STATE SHARE OF PROTESTED PROPERTY TAXES MUST BE REMITTED TO THE STATE TREASURER; PROVIDING THAT A GOVERNING BODY OF A TAXING JURISDICTION MAY ACCESS PROTESTED PROPERTY TAXES; PROVIDING THAT REFUNDS OF PROTESTED PROPERTY TAXES TO TAXPAYERS THAT ARE CENTRALLY ASSESSED MAY BE MADE UP TO 10 YEARS FOLLOWING RESOLUTION OF THE PROTEST;"

2. Page 1, line 28.

Strike: "All"

Insert: "(a) Except as provided in subsection (4)(b), all"

3. Page 2.

Following: line 4

Insert: "(b) (i) Property taxes that are levied by the state must be remitted by the county treasurer to the state treasurer.
(ii) The state treasurer shall deposit that portion of the funds levied pursuant to 15-10-107 in the state special revenue fund. The remainder of the funds must be deposited in the state general fund."

4. Page 2, line 6.

Strike: "in" through "unresolved"

5. Page 2, line 8.

Strike: ", except" through "protest"

6. Page 2, line 10.

Strike: ", except the first-year protest amount"

7. Page 2, line 17 through line 26.

Strike: subsection (b) in its entirety

Insert: "(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest.

(ii) The taxing jurisdiction shall pay interest at the rate of interest generated from the pooled investment fund provided for in 17-6-203 for the applicable period."

8. Page 3, line 5.

Strike: "1 year"

Insert: "10 years"

Following: "protest"

Insert: "for property centrally assessed pursuant to 15-23-101 and not more than 1 year for all other property"

9. Page 3, line 9.

Strike: "four"

Insert: "two"

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10. Page 3, line 25.

Strike: "December 31, 2001"

Insert: "October 31, 2000"

11. Page 3, line 26.

Strike: "December 31, 2001"

Insert: "October 31, 2000"

And, as amended, do pass. Report adopted.

SB 302, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "IS"

Insert: "MAY BE"

2. Title, page 1, line 8.

Following: "OWNERS"

Insert: "OR THAT A PAYING CO-OWNER MAY, AFTER 3 YEARS OF PAYMENTS AND NOTICES TO THE NONPAYING CO-OWNER, TAKE A PROPERTY TAX LIEN ON THE NONPAYING CO-OWNER'S INTEREST"

3. Page 1, line 15.

Following: "payments."

Insert: "(1)"

Strike: "Payment"

Insert: "Except as provided in subsection (2), payment"

4. Page 1, line 21.

Insert: "(2) (a) A co-owner may receive a tax lien on property in which the co-owner has an undivided interest if:

(i) the co-owner pays the proportional amount of taxes on that co-owner's interest and on another co-owner's interest;

(ii) the paying co-owner has notified the nonpaying co-owner of the property tax payments and annually demands reimbursement in writing by certified mail, return receipt requested, addressed to the nonpaying co-owner's last-known mailing address; and

(iii) the paying co-owner has paid the property taxes for 3 consecutive years without reimbursement.

(b) Upon proof that a co-owner has complied with the provisions of this subsection (2), the paying co-owner is considered the purchaser of a tax lien on the ownership interest of the nonpaying co-owner and the county treasurer shall prepare a tax sale certificate with the paying co-owner as the purchaser. The certificate shall conform to the provisions of 15-17-212, except the certificate need not contain the information required in 15-17-212(1)(a) and (1)(b). The treasurer shall comply with the provisions of 15-17-212(2) regarding the certificate.

(c) For the purposes of this subsection (2), if there are more than two co-owners, single and multiple paying co-owners can receive a tax lien on the undivided interests of single and multiple nonpaying co-owners."

5. Page 1, line 27.

Following: "request of"

Insert: "all"

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6. Page 1, line 28.

Following: "15-7-102"

Insert: "and separate assessments"

7. Page 1, line 30.

Strike: "January 1"

Insert: "or prior to April 30"

8. Page 2, line 1.

Strike: "January 1"

Insert: "April 30"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/13/2003

HB 56, introduced by B. Thomas

HB 185, introduced by Wilson

HB 186, introduced by Matthews

HB 194, introduced by Barrett

HB 269, introduced by Bergren

HB 305, introduced by Peterson

HB 331, introduced by Gallus

HB 372, introduced by Cyr

HB 384, introduced by McKenney

MOTIONS

SB 222 - Senator Tash moved that his name be removed as sponsor to **SB 222**. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 404, introduced by Toole, Butcher, referred to Business and Labor.

SB 405, introduced by Laible, referred to State Administration.

SB 406, introduced by McGee, referred to Local Government.

SB 407, introduced by DePratu, referred to Taxation.

SB 408, introduced by Nelson, referred to Taxation.

SB 409, introduced by Stapleton, S. Anderson, Bales, Barkus, Butcher, Curtiss, DePratu, Esp, Forrester, Gillan, Laible, Lambert, Lenhart, Matthews, Noennig, A. Olson, Perry, Shea, F. Thomas, referred to Natural Resources.

SB 410, introduced by Taylor, referred to Natural Resources.

SB 411, introduced by Glaser, referred to Education and Cultural Resources.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Kitzenberg in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 89 - Senator Tash moved **SB 89** do pass. Motion carried as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat.

Total 28

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, DePratu, Esp, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Pease, Sprague, Stapleton, Taylor, Thomas, Zook, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Schmidt excused at this time.

SB 112 - Senator McCarthy moved **SB 112** do pass. Motion carried as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 36

Nays: Bales, Barkus, DePratu, Esp, Glaser, Johnson, McGee, McNutt, Perry, Stapleton, Story, Zook, Mr. President.

Total 13

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

SB 334 - Senator Sprague moved **SB 334** do pass. Motion carried with Senator Johnson voting nay.

SB 191 - Senator O'Neil moved **SB 191** do pass. Motion carried with Senators Cocchiarella and Shea voting nay.

SB 198 - Senator Stonington moved **SB 198** do pass. Motion carried with Senator Anderson voting nay.

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SB 246 - Senator Glaser moved **SB 246** do pass. Motion carried unanimously.

SB 288 - Senator Mangan moved **SB 288** do pass. Motion carried unanimously.

Senator Schmidt present at this time.

SB 320 - Senator Tester moved **SB 320** do pass. Motion carried unanimously.

SB 328 - Senator Mangan moved **SB 328** do pass. Motion carried with Senator O'Neil voting nay.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Kitzenberg moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 160 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 168 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Butcher, Esp, Glaser, Johnson, McNutt.
Total 5

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 209 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Story.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 281 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.
Total 45

Nays: Cobb, Gebhardt, Grimes, Nelson, Wheat.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 325 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 79 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Mangan.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 114 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 238 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 248 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

SB 388 - Senator Tash moved **SB 388** be taken from the committee on Judiciary and rereferred to the committee on Finance and Claims. Motion carried.

SB 89 - Senator Gebhardt moved he be allowed to change his vote on **SB 89**, second reading this day, from nay to yea. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 9:00 a.m., Saturday, February 15, 2003. Motion carried.

Senate adjourned at 3:00 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
February 15, 2003

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-third legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 404, SB 405, SB 406, SB 407, SB 408, SB 409, SB 410, SB 411.**

Correctly engrossed: **SB 25, SB 62, SB 217, SB 223, SB 292, SB 294, SB 302, SB 316, SB 327.**

BUSINESS AND LABOR (Mahlum, Chairman):
SB 235, introduced bill, be amended as follows:

2/14/2003

1. Title, page 1, line 7.

Strike: "OR"

Insert: ", "

Strike: "RECOGNIZED"

Following: "ASSOCIATION"

Insert: ", OR BY AN ORGANIZATION OR INDIVIDUAL CONDUCTING EXHIBITIONS OR MATCHES, INCLUDING BUT NOT LIMITED TO "SO YOU THINK YOU ARE TOUGH" BOXING MATCHES, CLUB BOXING MATCHES, AND MUD WRESTLING"

2. Page 1, line 15.

Strike: ", including" through "wrestling,"

3. Page 1, line 20.

Strike: "or"

4. Page 1, line 21.

Strike: "a recognized"

Insert: "an" (new per clerical of 2/14/03)

Following: "association"

Insert: "; or

(d) by an organization or an individual conducting exhibitions or matches, including but not limited to "so you think you are tough" boxing matches, club boxing matches, and mud wrestling"

5. Page 1, line 22.

Strike: "(1)(c)"

Insert: "(1)(d)"

And, as amended, do pass. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/14/2003

HB 214, introduced by Shockley
HB 337, introduced by Ripley
HB 339, introduced by Pattison
HB 359, introduced by Galvin-Halcro
HB 396, introduced by Gibson
HB 400, introduced by Gillan
HB 424, introduced by Jent
HB 489, introduced by Lehman
HB 490, introduced by Buzzas
HB 496, introduced by Becker
HB 501, introduced by Noennig
HB 507, introduced by Brueggeman

House bills passed and transmitted to the Senate for concurrence: 2/15/2003

HB 306, introduced by Balyeat
HB 402, introduced by Parker
HB 428, introduced by Keane
HB 438, introduced by Forrester
HB 453, introduced by Raser
HB 474, introduced by Weiss

House joint resolutions passed and transmitted to the Senate for concurrence: 2/15/2003

HJR 17, introduced by Peterson
HJR 18, introduced by Waitschies

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 2/15/2003

SB 7, introduced by Butcher

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 412, introduced by Toole, referred to Fish and Game.
SB 413, introduced by Kitzenberg, Black, Carney, E. Clark, Cocchiarella, Curtiss, DePratu, Hansen, Harrington, Pease, Roush, Smith, Tester, Windy Boy (by request of the Senate Highways and Transportation Standing Committee), referred to Highways and Transportation.
SB 414, introduced by Pease, Hansen, Kitzenberg, Lindeen, McNutt, Roush, Small-Eastman, Taylor, Tester, Tropila, Zook (by request of the Senate Highways and Transportation Standing Committee), referred to Taxation.
SB 415, introduced by F. Thomas, Mood, referred to Business and Labor.
SB 416, introduced by Barkus, Anderson, Laible, Perry, Shea, referred to Natural Resources.
SB 417, introduced by Barkus, Anderson, Laible, Perry, Shea, referred to Natural Resources.

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SB 418, introduced by Taylor, referred to Public Health, Welfare and Safety..

SB 419, introduced by McNutt, referred to Judiciary.

SB 420, introduced by Butcher, referred to Judiciary.

SB 421, introduced by Grimes, referred to Judiciary.

SB 422, introduced by Black, Kitzenberg, referred to Highways and Transportation.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 19, introduced by Curtiss, Bookout-Reinicke, Anderson, Barkus, Esp, Everett, Laible, Maedje, Mood, Witt, referred to Natural Resources.

SJR 20, introduced by Mahlum, referred to Education and Cultural Resources.

SJR 21, introduced by Cocchiarella, Andersen, Barkus, Bookout-Reinicke, Cooney, Cromley, DePratu, Ellingson, Elliott, Gillan, Glaser, Haines, Hansen, Harrington, Jacobson, Jayne, Kaufmann, Keenan, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, A. Olson, Pattison, Pease, Roush, D. Ryan, Schmidt, Shea, Small-Eastman, Sprague, Squires, Stonington, Tester, F. Thomas, Toole, Tropila, Wheat, Witt, referred to Public Health, Welfare and Safety.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 9:35 a.m. this day for purpose of party caucuses.
Motion carried.

Senate recessed at 9:16 a.m.

Senate reconvened at 9:48 a.m.

Roll Call. All members present. Quorum present.

MOTIONS

SB 89 - Senator Thomas moved **SB 89** be taken from third reading this legislative day and rereferred to the committee on Finance and Claims. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 329 - Senator Thomas moved consideration of **SB 329** be placed below SB 25 on the second reading board this legislative day. Motion carried.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 112 passed as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 41

Nays: Bales, Barkus, Esp, Glaser, McGee, McNutt, Stapleton, Story, Zook.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 190 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Grimes, Kitzenberg.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 191 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Cocchiarella, Ryan, Shea.

Total 3

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 198 passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Anderson, Nelson, O'Neil, Sprague.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 246 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 283 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 288 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 320 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 328 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

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Total 41

Nays: Bales, Curtiss, Esp, Gebhardt, McGee, Nelson, O'Neil, Story, Mr. President.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 334 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Mangan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 94 - Senator Gebhardt moved **HB 94** be concurred in. Motion carried unanimously.

HB 116 - Senator Grimes moved **HB 116** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 38

Nays: Bales, Black, Butcher, Curtiss, Esp, Gebhardt, Laible, Mahlum, McGee, O'Neil, Stapleton, Story.

Total 12

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 217 - Senator Butcher moved **HB 217** be concurred in. Motion carried unanimously.

Senator McGee assumed the chair.

SB 25 - Senator Mangan moved **SB 25** do pass. Motion carried unanimously.

SB 329 - Senator Mangan moved **SB 329** do pass. Motion carried unanimously.

Senator Mangan re-assumed the chair.

SB 223 - Senator McNutt moved **SB 223** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Roush, Schmidt, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 31

Nays: Cobb, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Ryan, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 300 - Senator Grimes introduced **SB 300**. After introduction, Senator Ellingson moved **SB 300**, second reading copy, be amended as follows :

1. Page 1, line 19.

Following: "(3)"

Insert: "(a)"

2. Page 1, line 20.

Following: "\$500."

Strike: "The"

Insert: "(b) Subject to subsection (3)(c), the"

3. Page 1, line 20 through line 21.

Strike: "and" on line 20 through "acres" on line 21

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4. Page 1, line 29 through line 30.

Strike: "An" on line 29 through "fees." on line 30

Insert: "(c) A person who is applying for a permit pursuant to subsection (1) is exempt from any fees beyond the basic permit fee if:

(i) the total disturbance area is 20 acres or less; and

(ii) the disturbance is unlikely to result in significant environmental impacts."

Amendment **adopted** unanimously.

SB 300 - Senator Grimes moved **SB 300**, as amended, do pass. Motion carried with Senators Cooney and Toole voting nay.

SB 311 - Senator Wheat moved **SB 311**, second reading copy, be amended as follows :

1. Page 1, line 15 through line 16.

Following: "means" on line 15

Strike: remainder of line 15 through the first "procedure," on line 16

Insert: "a hazardous substance, as defined in 50-30-201, a"

2. Page 1, line 16.

Following: "of a"

Strike: "device, instrument, procedure, or"

Following: the second "product"

Strike: ", "

3. Page 1, line 30.

Following: "PROVIDERS"

Strike: ".,"

Insert: ".,"

4. Page 2, line 1 through line 4.

Strike: subsections (i) and (ii) in their entirety

5. Page 2, line 12 through line 13.

Following: "hazard" on line 12

Strike: remainder of line 12 through "hazard" on line 13

Insert: "that has caused injury and is likely to cause injury"

Amendment **adopted** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 27

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Johnson, Laible, Mahlum, McGee, McNutt, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 23

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 311 - Senator Wheat moved **SB 311**, as amended, do pass. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Wheat.
Total 20

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 30

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 311 - Senator Thomas moved **SB 311** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 28

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Harrington excused at this time.

Senator Thomas moved consideration of **HB 22, HB 51, HB 112 and HB 121** be moved to the bottom of the second reading board. Motion carried.

SB 138 - Senator Cobb moved **SB 138** do pass. Motion carried unanimously.

Senator Sprague excused at this time.

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SB 217 - Senator Mahlum moved **SB 217** do pass. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McNutt, O'Neil, Pease, Perry, Schmidt, Shea, Squires, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 36

Nays: Bales, Esp, Glaser, McCarthy, McGee, Nelson, Roush, Ryan, Stapleton, Story, Tash, Mr. President.

Total 12

Absent or not voting: None.

Total 0

Excused: Harrington, Sprague.

Total 2

Senator Sprague present at this time.

SB 259 - Senator Glaser moved **SB 259** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 37

Nays: Cooney, Ellingson, Hansen, Kitzenberg, Mangan, McCarthy, Pease, Ryan, Schmidt, Shea, Stapleton, Toole.

Total 12

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

Senator McGee rose on a point of personal privilege and apologized to the Senate and to Senator Ellingson for his gestures during second reading debate. Senator Ellingson acknowledged his apology and thanked him for his passionate interest in the bill being debated.

Senator Sprague rose on a point of personal privilege and stated that even though this was "ugly tie" day, he requested Senator Tester be escorted from the chamber until he could find a tie befitting the decorum of the Senate. Senator Tester returned with a moderately appropriate tie, much to the amusement of the Senate.

SB 292 - Senator Cocchiarella moved **SB 292** do pass. Motion carried unanimously.

Senator Taylor excused at this time.

SB 273 - Senator Tester moved **SB 273** do pass. After discussion, Senator Thomas made a **substitute motion** that **SB 273 do not pass**. After further discussion, Senator Thomas withdrew his **do not pass** motion, at the request of the chair.

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Senator Tester moved **SB 273** be **indefinitely postponed**. Motion to **indefinitely postpone** carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Pease, Perry, Sprague, Stapleton, Stonington, Story, Tash, Thomas, Wheat, Zook, Mr. President.
Total 32

Nays: Butcher, Cooney, Cromley, Ellingson, Hansen, Kitzenberg, McCarthy, Nelson, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila.
Total 16

Absent or not voting: None.
Total 0

Excused: Harrington, Taylor.
Total 2

SB 294 - Senator Gebhardt moved **SB 294** do pass. Motion carried unanimously.

SB 302 - Senator McCarthy moved **SB 302** do pass. Motion carried unanimously.

Senator Squires rose on a point of personal privilege and stated there were people left out of the discussion on **SB 273**, those being the workers that have been injured, and that she fully supported **SB 273** for those individuals.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Mangan moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 300 - Senator Zook moved **SB 300** be taken from third reading and rereferred to the committee on Finance and Claims. Motion carried.

ANNOUNCEMENTS

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans, and thanked them for their work through this week.

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, February 17, 2003. Motion carried.

Senate adjourned at 2:10 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
February 17, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-fourth legislative day.

SPECIAL ORDERS OF THE DAY

Senator Wheat introduced The Heritage Signers, directed by Wendy Thiesen, who performed songs accompanied by sign language, for the Senate. The Heritage Signers consist of fourth through eighth grade students from the Bozeman area. The students practice 3-5 hours per week throughout the school year, and have performed for The Governor's Prayer Breakfast, the Big Sky State Games and many other activities.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 412, SB 413, SB 414, SB 415, SB 416, SB 417, SB 418, SB 419, SB 420, SB 421, SB 422, SJR 19, SJR 20, SJR 21.**

Correctly engrossed: **SB 235, SB 300.**

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 2/17/2003
HJR 6, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman): 2/17/2003
SB 204, do pass. Report adopted.
HB 151, be concurred in. Report adopted.

TAXATION (DePratu, Chairman): 2/14/2003
HB 406, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman): 2/17/2003
MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 3:00 p.m., Saturday, February 15, 2003:

TITLE

NAME

Pages:

Sarah Smith
Emily Tutvedt
Andrew Yager
Maggie Scott
Taylor Clayton
Britt Kindelman
Robert Paskey
Kate Kaercher

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and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 17, 2003:

<u>TITLE</u>	<u>NAME</u>	<u>SPONSOR</u>
Pages:	Matt Turnbull, Brockton, MT	Senator McNutt
	Alison Vergeront, Polson, MT	Senator Taylor
	Eric Hinebauch, Chinook, MT	Senator Hansen
	Tara Guckeen, Billings, MT	Senator Cromley
	McKencie Stoltz, Billings, MT	Senator Cromley
	Sapphire Diamant-Rink, East Glacier, MT	Senator Roush
	Salliann Grovam, Helena, MT	Senator Toole
	Josh Waller, Cut Bank, MT	Senator Roush

Report Adopted.

MOTIONS

SB 375 - Senator Tash moved **SB 375** be taken from the committee on Natural Resources and rereferred to the committee on Agriculture, Livestock and Irrigation. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 423, introduced by Black, Anderson, Barkus, Butcher, Laible, McGee, Stapleton, Story, F. Thomas, referred to State Administration.

SB 424, introduced by Nelson, referred to Education and Cultural Resources.

SB 425, introduced by Laible, referred to Local Government.

SB 426, introduced by Perry, referred to Local Government.

SB 427, introduced by Perry, referred to Public Health, Welfare and Safety.

SB 428, introduced by Esp, Keenan, Mood, referred to Select Committee on Redistricting and Apportionment.

SB 429, introduced by Esp, Keenan, Mood, referred to Select Committee on Redistricting and Apportionment.

SB 430, introduced by Ellingson, referred to Business and Labor.

SB 431, introduced by Elliott, Cobb, Kaufmann, Tester, referred to State Administration.

MOTIONS

SB 7, House Amendments - Senator Thomas moved consideration of **House Amendments to SB 7** be moved to the top of the second reading board this legislative day. Motion carried.

SB 327, SB 62, SB 316 - Senator Thomas moved consideration of **SB 327, SB 62 and SB 316** be moved below SB 7 on the second reading board. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

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Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 7 - House Amendments - Senator Butcher moved House amendments to **SB 7** be concurred in. Motion carried unanimously.

Committee of the Whole stood at ease.

SPECIAL ORDERS OF THE DAY

President Keenan introduced Christopher Thomson, Canadian Consul General in Minneapolis. As Consul General, Mr. Thomson is responsible for the conduct of Canada's bilateral relationships with eight Midwest and Rocky Mountain states, including Montana. Consul Thomson spoke to the Senate.

Committee of the Whole resumed.

SB 327 - Senator Taylor moved **SB 327** do pass. After discussion, Senator Ryan made a **substitute motion** that **SB 327**, second reading copy, be amended as follows :

1. Title, page 1, line 4 through line 13.

Strike: "REQUIRING" on line 4 through "ACCOUNT;" on line 13

Insert: "REQUIRING THE ATTORNEY GENERAL TO ESTABLISH AND ENFORCE A TELEPHONE SOLICITATION NO-CALL LIST; PROHIBITING TELEPHONE SOLICITATION OF RESIDENTIAL SUBSCRIBERS WHO ARE ON THE NO-CALL LIST; PROVIDING THAT THE NO-CALL LIST DATABASE IS NOT A PUBLIC RECORD; PROVIDING THAT RESIDENTIAL SUBSCRIBERS MAY BE PLACED ON THE NO-CALL LIST WITHOUT COST; PROHIBITING INTERFERENCE WITH CALLER IDENTIFICATION SERVICES; PROVIDING FOR CIVIL, CRIMINAL, AND INJUNCTIVE ACTIONS AGAINST PERSONS OR ENTITIES VIOLATING TELEPHONE SOLICITATION NO-CALL PROVISIONS; CREATING AN ADVISORY GROUP FOR CONSUMER PROTECTION WITH RESPECT TO TELEMARKETERS; PROVIDING FOR DISSEMINATION OF INFORMATION ON THE NO-CALL LIST; CREATING A TELEPHONE SOLICITATION NO-CALL LIST ADMINISTRATION ACCOUNT;"

2. Page 1.

Following: line 15

Strike: everything after the enacting clause

Insert: "

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 7] the following definitions apply:

(1) "Caller identification service" means a type of telephone service which permits telephone subscribers to see the telephone number of incoming telephone calls.

(2) "Residential subscriber" means a person who has subscribed to residential telephone service from a local exchange company and the other persons living or residing with the person.

(3) "Telephone solicitation" means any voice communication over a telephone line from a live operator, through the use of an automatic dialing-announcing device, or by other means for the purpose of encouraging the purchase of, rental of, or investment in property, goods, or services. Telephone solicitation does not include communications:

(a) to any residential subscriber with that subscriber's prior express invitation or permission;

(b) by or on behalf of any person or entity with whom a residential subscriber has had a business contact within the past 180 days or has a current business or personal relationship;

(c) by or on behalf of an entity organized pursuant to section 501(c)(1) through 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(1) through 501(c)(6), while the entity is engaged in fundraising to support the charitable

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purpose for which the entity was established and provided that a bona fide member of the exempt organization makes the voice communication;

- (d) by or on behalf of any entity over which a federal agency has regulatory authority to the extent that:
- (i) subject to that authority, the entity is required to maintain a license, permit, or certificate to sell or provide the merchandise being offered through telemarketing; and
- (ii) the entity is required by law or rule to develop and maintain a no-call list;
- (e) by a natural person responding to a referral or working from the person's primary residence; or
- (f) by a person licensed by the state of Montana to carry out a trade, occupation, or profession who is setting or attempting to set an appointment for actions relating to that licensed trade, occupation, or profession within the state.

NEW SECTION. Section 2. Telephone solicitation of residential subscribers on no-call list prohibited.

A person or entity may not make or cause to be made any telephone solicitation to the telephone line of any residential subscriber in this state who has given notice to the attorney general, in accordance with rules promulgated pursuant to [section 3], of the residential subscriber's objection to receiving telephone solicitations.

NEW SECTION. Section 3. Attorney general to create no-call list database -- rules -- inclusion of national database -- database not public record -- no cost to subscribers. (1) The attorney general shall establish and provide for the operation of a database containing a list of names and telephone numbers of residential subscribers who object to receiving telephone solicitations. The attorney general must have the database in operation no later than January 1, 2004. A residential subscriber may be listed in the data base without cost to the subscriber.

(2) Not later than January 1, 2004, the attorney general shall promulgate rules and regulations governing the establishment of a state no-call database that are necessary and appropriate to fully implement the provisions of [sections 1 through 7]. The rules must include but are not limited to rules specifying:

- (a) the methods by which each residential subscriber may give notice to the attorney general or a contractor designated by the attorney general of the residential subscriber's objection to receiving telephone solicitations or the methods by which the residential subscriber may revoke the notice;
- (b) the length of time for which a notice of objection is effective and the effect of a change of telephone number on the notice;
- (c) the methods by which pertinent information may be collected and added to the no-call database;
- (d) the methods for obtaining access to the no-call database by any person or entity desiring to make telephone solicitations if that person or entity is required to avoid calling the residential subscribers included in the no-call database;
- (e) the cost to be assessed to a person or entity that is required to obtain access to the no-call database; and
- (f) other matters relating to the no-call database that the attorney general considers desirable.

(3) If the federal communications commission establishes a single national database of telephone numbers of residential subscribers who object to receiving telephone solicitations pursuant to 47 U.S.C. 227(c)(3), the attorney general shall include that part of the single national database that relates to Montana in the no-call database established pursuant to this section.

(4) Information contained in the no-call database established pursuant to this section may be used only for the purpose of compliance with [section 2] and this section or in a proceeding or action pursuant to [section 5]. The information may not be considered a public record pursuant to Title 2, chapter 6.

(5) In April, July, October, and January of each year, the attorney general shall make a reasonable attempt to obtain subscription listings of residential subscribers in this state who have arranged to be included on any national no-call list and add those names to the state no-call list.

NEW SECTION. Section 4. Interference with caller identification service prohibited. (1) Any person or entity who makes a telephone solicitation to the telephone line of any residential subscriber in this state shall, at the beginning of the call, state clearly the identity of the person or entity initiating the call.

(2) A person or entity who makes a telephone solicitation to the telephone line of a residential subscriber in this

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state may not knowingly use any method to block or otherwise circumvent the residential subscriber's use of a caller identification service.

NEW SECTION. Section 5. Penalties -- attorney general to enforce civil, criminal, and injunctive relief -- private actions -- defenses -- statute of limitations. (1) (a) The attorney general or a county attorney may initiate proceedings relating to a knowing violation or threatened knowing violation of [section 2 or 4].

(b) The proceedings may include a request for any of the following:

- (i) an injunction;
- (ii) a civil penalty up to a maximum of \$5,000 for each knowing violation;
- (iii) additional relief that a court of competent jurisdiction may order.

(c) The attorney general may issue investigative demands, issue subpoenas, administer oaths, and conduct hearings in the course of investigating a violation of [section 2 or 4].

(2) In addition to the penalties provided in subsection (1), any person or entity that violates [section 4] is subject to all penalties, including criminal penalties, remedies, and procedures provided in the unfair trade practices and consumer protection laws, as provided for in Title 30, chapter 14, parts 1 and 2. The remedies available in this section are cumulative and in addition to any other remedies available by law.

(3) Any residential subscriber who has received more than one telephone solicitation within any 12-month period by or on behalf of the same person or entity in violation of [section 2 or 4] may bring an action to:

- (a) enjoin the violation; and
- (b) recover the greater of:
 - (i) the actual monetary loss from a knowing violation; or
 - (ii) \$5,000 in damages for each knowing violation.

(4) It is a defense in any action or proceeding brought pursuant to this section that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of [section 2 or 4].

(5) An action or proceeding may not be brought pursuant to this section more than 2 years after:

- (a) the person bringing the action knew or should have known of the occurrence of the alleged violation; or
- (b) the termination of any proceeding or action arising out of the same violation or violations by the state of Montana.

(6) A court of this state may exercise personal jurisdiction, in the manner provided by law, over any nonresident or the nonresident's executor or administrator as to an action or proceeding authorized by this section.

(7) The remedies, duties, prohibitions, and penalties provided in [sections 1 through 7] are not exclusive and are in addition to all other causes of action, remedies, and penalties provided by law.

(8) A provider of telephone caller identification service may not be held liable for violations of [section 2 or 4] that are committed by other persons or entities.

NEW SECTION. Section 6. Advisory group for consumer protection from telemarketers -- publication of information on consumer rights. (1) The attorney general shall establish an advisory group composed of government entities, local exchange telecommunications companies, businesses, senior citizens, and other community advocates to compile and promote a list of educational literature to help consumers understand their options with regard to telephone solicitations and telemarketers, as defined in 30-14-1403.

(2) The attorney general shall work with local exchange telecommunications companies to disseminate to their residential subscribers information about the availability of educational literature and instructions about how to request educational literature from the attorney general. The attorney general may enter into agreements with those companies for the purpose of dissemination of the educational literature.

(3) The attorney general shall include on the attorney general's internet website information that informs residential subscribers of their rights to be placed on a no-call list and the various methods, including notice to the attorney general, of placing their names on the no-call list.

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(4) The attorney general shall have any literature developed for dissemination to the public pursuant to this section ready for dissemination no later than January 1, 2004.

NEW SECTION. Section 7. Telephone solicitation no-call list administration account -- purpose and administration. (1) There is a telephone solicitation no-call list administration account in the state special revenue fund for administration of [sections 1 through 7] by the office of the attorney general.

(2) Revenue generated from fees collected from persons or entities obtaining access to the no-call list database and any civil penalties recovered by the attorney general pursuant to [section 5] must be deposited into the telephone solicitation no-call list administration account.

NEW SECTION. Section 8. Codification instruction. [Sections 1 through 7] are intended to be codified as an integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1 through 7].

NEW SECTION. Section 9. Effective date. [This act] is effective July 1, 2003."

After discussion, Senator Ryan **withdrew** his amendment.

SB 327 - Senator Taylor's do pass motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Tester, Thomas, Zook, Mr. President.
Total 34

Nays: Butcher, Cobb, Cooney, Ellingson, Elliott, Kitzenberg, McCarthy, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Toole, Tropila, Wheat.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Committee of the Whole stood at ease.

SPECIAL ORDERS OF THE DAY

The President of the United States, the Honorable Abraham Lincoln was welcomed to the Senate. President Lincoln gave a short speech to the Senate in honor of his 194th birthday. (Former Senator Harry Fritz of the University of Montana represented President Lincoln.)

Committee of the Whole resumed.

SB 62 - Senator D. Ryan moved **SB 62**, second reading copy, be amended as follows :

1. Title, page 1, line 4 through line 5.

Strike: "DEPARTMENT" on line 4 through "ADMINISTRATION" on line 5

Insert: "ATTORNEY GENERAL"

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2. Page 2, line 8.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

3. Page 3, line 3.

Strike: "DEPARTMENT"

Insert: "attorney general"

4. Page 3, line 7.

Strike: "DEPARTMENT"

Insert: "Attorney general"

5. Page 3, line 9.

Strike: "DEPARTMENT"

Insert: "attorney general"

6. Page 3, line 11.

Strike: "DEPARTMENT"

Insert: "attorney general"

7. Page 3, line 13.

Strike: "DEPARTMENT"

Insert: "attorney general"

8. Page 3, line 17.

Strike: the first "DEPARTMENT"

Insert: "attorney general"

Following: "general"

Strike: the second "DEPARTMENT"

Insert: "attorney general"

9. Page 3, line 28.

Strike: "DEPARTMENT"

Insert: "attorney general"

10. Page 4, line 2.

Strike: "DEPARTMENT"

Insert: "attorney general"

11. Page 4, line 8.

Strike: "DEPARTMENT"

Insert: "attorney general"

12. Page 4, line 19.

Strike: "DEPARTMENT"

Insert: "attorney general"

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13. Page 4, line 21.

Strike: "DEPARTMENT"

Insert: "attorney general"

14. Page 6, line 13.

Strike: "DEPARTMENT"

Insert: "office of the attorney general"

15. Page 6, line 15.

Strike: "DEPARTMENT"

Insert: "attorney general"

Amendment **failed** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 62 - Senator D. Ryan moved **SB 62** do pass. Motion carried as follows:

Yeas: Anderson, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 39

Nays: Bales, Barkus, Butcher, DePratu, Glaser, Grimes, McGee, Perry, Stapleton, Zook, Mr. President.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

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MOTIONS

SB 7 House Amendments - Senator Thomas moved rule 50-170 be suspended to allow the House Amendments to **SB 7** to be placed on third reading this legislative day. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 25 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 138 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 217 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat,

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Zook.
Total 39

Nays: Bales, Cobb, Curtiss, Esp, McGee, Nelson, Roush, Ryan, Stapleton, Story, Mr. President.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 223 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Roush, Schmidt, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 32

Nays: Cobb, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, McCarthy, Nelson, Pease, Ryan, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 259 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Squires, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 36

Nays: Cooney, Ellingson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Ryan, Schmidt, Shea, Stapleton, Tester, Toole.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 292 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Toole.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 294 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 302 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 329 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 94, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Cobb, Cromley, Johnson.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 116, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 35

Nays: Bales, Black, Butcher, Curtiss, Esp, Gebhardt, Glaser, Johnson, Laible, McGee, O'Neil, Stapleton, Story, Tash, Mr. President.
Total 15

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HB 217 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 7, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Cobb, Johnson.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, February 18, 2003. Motion carried.

Senate adjourned at 3:05 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
February 18, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Schmidt and Stapleton, excused. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-fifth legislative day.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 423, SB 424, SB 425, SB 426, SB 427, SB 428, SB 429, SB 430, SB 431.**
Correctly enrolled: **SB 7.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
SB 383, introduced bill, be amended as follows:

2/17/2003

1. Page 2, line 3.

Following: "system"

Strike: "or interfere with the use"

Insert: ". The diversion"

2. Page 2, line 4.

Following: "chapter 2"

Insert: ", is not a prohibited activity under this chapter"

And, as amended, do pass. Report adopted.

HB 181, be concurred in. Report adopted.

HB 311, be concurred in. Report adopted.

BUSINESS AND LABOR (Mahlum, Chairman):
SB 344, introduced bill, be amended as follows:

2/17/2003

1. Page 2, line 18.

Strike: "or renewed"

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):
SB 183, do pass. Report adopted.

2/18/2003

SB 210, introduced bill, be amended as follows:

1. Title, line 6.

Following: "BENEFIT"

Insert: "AND ON THE NUMBER AWARDED ANNUALLY"

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2. Title, line 7.

Following: "REGENTS"

Insert: "AND THE DEPARTMENT OF ADMINISTRATION"

3. Page 2, line 21.

Following: "for"

Insert: "up to 20 eligible veterans in each fiscal year. To be eligible, a person must be"

4. Page 3, line 16.

Following: "rulemaking."

Insert: "(1) The veteran, the veteran's spouse, or the veteran's child shall apply to the department of administration for the tuition benefit on a form supplied by the department. The application must be submitted by June 30 of each year. By a drawing, the department shall select up to 20 applicants to receive the tuition benefit. The department shall adopt rules to implement this subsection."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/18/2003

SB 308, introduced bill, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "AUTHORIZING" on line 6 through "TELEMARKETERS;" on line 7

2. Title, page 1, line 14.

Following: "TELEMARKETER"

Insert: "IF THE CONSUMERS ASK"

3. Page 1, line 29.

Strike: "-- disapproval of scripts"

4. Page 2, line 30 through page 3, line 2.

Strike: "The" on page 2, line 30 through "30-14-1411(1)(g)." on page 3, line 2

5. Page 3.

Following: line 2

Insert: "(e) A registered seller or telemarketer shall send to the department a copy of any script, outline, or presentation before it is used for soliciting purposes."

6. Page 3, line 28.

Strike: "been disapproved by"

Insert: "not been sent to"

7. Page 4, line 26 through line 28.

Following: "state"

Strike: ", unless" on line 26 through "entity" on line 28

8. Page 6, line 18.

Following: "address"

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Insert: "; or
(17) a business that is regulated by the federal government and is engaged in selling telephone services"

9. Page 7, line 30.

Strike: "regardless of whether"

Insert: "if"

10. Page 8, line 17.

Following: "unless"

Insert: ": (i)"

11. Page 8.

Following: line 17

Insert: "(ii) the automatic dialing-announcing device is being used by a school district to contact students, parents, or employees;

(iii) the seller or telemarketer has had a business relationship within the last 18 months with the person being called;

(iv) the message is advising employees of work schedules; or

(v) the use of the automatic dialing-announcing device is by a governmental entity;"

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

2/18/2003

SB 243, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

2/14/2003

SB 295, introduced bill, be amended as follows:

1. Title, page 1, lines 6 and 7.

Strike: "INSTRUCTION " on page 1, line 6 through "LICENSES" on line 7

Insert: "AN ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMIT"

2. Title, page 1, line 7.

Strike: "13"

Insert: "14 1/2"

3. Title, page 1, line 8.

Following: "PARENT"

Insert: ", GRANDPARENT,"

4. Title, page 1, line 9.

Following: "PARENT"

Insert: ", GRANDPARENT,"

5. Title, page 1, line 11.

Strike: "AN"

Insert: "A DELAYED"

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6. Page 2, line 17.

Following: "licenses"

Insert: "-- alternative driver's education learning permits"

7. Page 2, line 18.

Strike: "(b)"

8. Page 2, lines 26 through 27.

Strike: "or who" on line 26 through "(7)" on line 27

9. Page 3, line 21 through page 4, line 9.

Strike: subsection (7) in its entirety

Insert: "(7) (a) The department may issue a 24-month alternative driver's education learning permit to a student who is at least 14 1/2 years of age and who is being educated in a home school or a nonpublic school, as described in 20-5-102(2)(e), if the student has registered with the county superintendent of the county in which the student lives. A student in a nonpublic school that offers a state-accredited driver's education program is not eligible for a permit under this subsection (7). The student may operate a motor vehicle using the alternative driver's education learning permit only when the student is under the direct supervision of a parent, grandparent, or legal guardian who is certified and whose names are listed on the learning permit.

(b) In order to be certified as an instructor for an alternative driver's education learning permit, the student's parent, grandparent, or legal guardian:

(i) must be a currently licensed driver;

(ii) may not have accumulated 5 or more habitual traffic offender points under 61-11-203 within the 36-month period preceding certification;

(iii) must have passed the knowledge test and the driving test, as provided in 61-5-110, within the 12-month period preceding certification or possess a current commercial driver's license;

(iv) shall pay a \$25 certification fee, which the department shall deposit in the general fund, after the department verifies that each instructor:

(A) has complied with subsections (7)(b)(i), (7)(b)(ii), and (7)(b)(iii);

(B) has provided a sample of the driver's education curricula to be used; and

(C) has vehicle liability insurance that covers the student.

(c) The training period for a student receiving an alternative driver's education learning permit pursuant to subsection (7)(a) is up to 24 months. A student receiving a permit shall maintain a log signed and dated by the certified supervising parent, grandparent, or legal guardian. The log must indicate that the student has driven under direct supervision on a roadway, as defined in 61-1-206, under the following conditions:

(i) for a minimum of 12 months of the training period;

(ii) 5 hours each month or 250 miles each month;

(iii) at least 60 hours or 3,000 miles during the training period;

(iv) in residential areas one-fourth of the total time; and

(v) during hours of darkness at least 10% of the total time."

10. Page 5, line 13.

Following: "parent"

Insert: ", grandparent,"

11. Page 6, line 27.

Following: "61-5-106(7)"

Insert: "and shall:

(a) require a student who is issued an alternative driver's education learning permit under 61-5-106(7) to keep

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a certified commercial driver's log book in which the student records driving hours, miles, time spent driving in residential areas, and time spent driving during hours of darkness;

(b) develop a 24-month alternative driver's education learning permit for use under 61-5-106(7). The learning permit must contain the names of the supervising parent, grandparent, or legal guardian who completed the requirements for certification as a supervising driver"

12. Page 6, line 29.

Strike: "July 1, 2003"

Insert: "January 1, 2004"

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

2/17/2003

SB 356, introduced bill, be amended as follows:

1. Title, line 5 through line 6.

Following: "RESOLUTIONS THAT" on line 5

Strike: remainder of line 5 through "PENALTIES" on line 6

Insert: "ARE MORE RESTRICTIVE AS TO PUBLIC NUDITY"

2. Page 1, line 25 through line 26.

Following: "that" on line 25

Strike: remainder of line 25 through "penalties" on line 26

Insert: "are more restrictive as to public nudity"

3. Page 1, line 27.

Following: line 26

Insert: "(4) As used in this section, "public nudity" means the showing of the human male or female genitals, pubic hair, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple."

And, as amended, do pass. Report adopted.

SB 398, do pass. Report adopted.

SJR 10, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

2/18/2003

SB 364, introduced bill, be amended as follows:

1. Page 2, line 21.

Strike: ", "

Insert: ": (i) "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2; and
(ii)"

2. Page 2, line 23.

Strike: "(i)"

Insert: "(A)"

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Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SJR 11, be adopted. Report adopted.

SJR 14, be adopted. Report adopted.

SJR 18, introduced joint resolution, be amended as follows:

1. Page 2, line 4.

Following: "members"

Insert: "and others"

And, as amended, be adopted. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

2/18/2003

SB 355, introduced bill, be amended as follows:

1. Page 1, line 9.

Strike: "Prior to the time that a"

Insert: "A"

2. Page 1, line 10.

Strike: "engages"

Insert: "shall, before engaging"

3. Page 1, line 11.

Strike: "the entity or person shall engage a registered surveyor to"

Insert: "require the following activities to be performed by a professional land surveyor, as defined in 37-67-101, or a qualified person under the direct supervision of a professional land surveyor"

4. Page 1, line 15.

Strike: "Within 30 days after an"

Insert: "A public or private"

Strike: "has completed"

Insert: "shall, within 30 days of completing"

5. Page 1, line 16.

Strike: "the entity or person shall engage a registered surveyor to"

Insert: "require the following activities to be performed by a professional land surveyor, as defined in 37-67-101, or a qualified person under the direct supervision of a professional land surveyor"

6. Page 1, line 19.

Following: "70-22-104"

Insert: "and 70-22-105"

And, as amended, do pass. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/17/2003

HB 277, introduced by Lindeen
HB 373, introduced by A. Olson
HB 427, introduced by Gutsche
HB 435, introduced by Sinrud
HB 436, introduced by A. Olson
HB 451, introduced by E. Clark
HB 456, introduced by Parker
HB 471, introduced by Wanzenried
HB 478, introduced by Peterson
HB 521, introduced by Balyeat
HB 525, introduced by Keane
HB 555, introduced by Bitney

House joint resolutions passed and transmitted to the Senate for concurrence:

2/17/2003

HJR 3, introduced by Barrett
HJR 4, introduced by Lange
HJR 10, introduced by Lawson
HJR 15, introduced by Wagman
HJR 20, introduced by Roberts

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 432, introduced by Grimes, referred to Business and Labor.
SB 433, introduced by D. Ryan, Cobb, referred to Taxation.
SB 434, introduced by Tropila, referred to Judiciary.
SB 435, introduced by Keenan, referred to Highways and Transportation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Roush in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 80 - Senator DePratu moved **HB 80** be concurred in. Motion carried unanimously.

HB 22 - Senator Butcher moved **HB 22** be concurred in. Motion carried unanimously.

HB 51 - Senator Esp moved **HB 51** be concurred in. Motion carried unanimously.

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HB 112 - Senator Butcher moved **HB 112** be concurred in. Motion carried unanimously.

HB 121 - Senator Bohlinger moved **HB 121** be concurred in. Motion carried unanimously.

SB 316 - Senator Grimes moved **SB 316** do pass. Motion carried unanimously.

SB 204, requiring 2/3 of entire Legislature - Senator Taylor moved **SB 204** do pass. Motion received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 34

Nays: Butcher, Cooney, Cromley, Ellingson, Elliott, Johnson, Mangan, O'Neil, Ryan, Stonington, Tester, Toole, Tropila, Wheat.

Total 14

Absent or not voting: None.

Total 0

Excused: Schmidt, Stapleton.

Total 2

SB 247 - Senator Cobb introduced **SB 247**. After introduction of the bill, Senator Stonington moved **SB 247**, second reading copy, be amended as follows:

1. Page 3, line 21 through line 23.

Strike: "To" on line 21 through "purposes." on line 23

Amendment **adopted** unanimously.

SB 247 - Senator Cobb moved **SB 247**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Tropila, Zook.

Total 36

Nays: Cooney, Ellingson, Elliott, Hansen, Harrington, Johnson, McNutt, Stonington, Tester, Toole, Wheat, Mr. President.

Total 12

Absent or not voting: None.

Total 0

Excused: Schmidt, Stapleton.

Total 2

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Senators Johnson and McCarthy excused at this time.

HB 151 - Senator Gebhardt moved **HB 151** be concurred in. Motion carried unanimously.

HB 406 - Senator Toole moved consideration of **HB 406** be placed at the bottom of the second reading board. Motion carried.

HJR 6 - Senator D. Ryan moved **HJR 6** be concurred in. Motion carried unanimously.

HB 406 - Senator Toole moved **HB 406** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Roush moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 62 passed as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.
Total 37

Nays: Bales, Barkus, Black, Butcher, DePratu, Gebhardt, Glaser, McGee, Zook, Mr. President.
Total 10

Paired: McCarthy, Aye; DePratu, No.

Absent or not voting: None.
Total 0

Excused: Johnson, Schmidt, Stapleton.
Total 3

SB 327 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 31

Nays: Butcher, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Kitzenberg, McCarthy, Pease, Roush, Ryan, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 17

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Paired: Johnson, Aye; McCarthy, No.

Absent or not voting: None.
Total 0

Excused: Schmidt, Stapleton.
Total 2

MOTIONS

Senator Thomas moved to suspend the rules for one (1) day to allow bills that are being engrossed this legislative day, to be heard the next legislative day, February 19, 2003. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, February 19, 2003. Motion carried.

Senate adjourned at 2:44 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
February 19, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Bishop Richard Omland of the Montana Synod Evangelical Lutheran Church of America. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Pease, excused. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-sixth legislative day.

SPECIAL ORDERS OF THE DAY

Monte, the Grizzly mascot from the University of Montana, visited the Senate and displayed some of the tactics that won him the title of Capital One National Mascot of the Year. The man behind the fur grew up on a ranch outside of Terry, Montana before moving to Miles City, where he graduated high school in 1997. The mystery man then accepted an acting scholarship to the University of Montana where he received his degree in 2001.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 432, SB 433, SB 434, SB 435.**

Correctly engrossed: **SB 210, SB 247, SB 295, SB 308, SB 344, SB 355, SB 356, SB 364, SB 383, SJR 18.**

BUSINESS AND LABOR (Mahlum, Chairman):
SB 254, introduced bill, be amended as follows:

2/18/2003

1. Page 3, line 9.
Strike: "personal"

2. Page 3, lines 17 and 18.
Strike: subsection (4) in its entirety

And, as amended, do pass. Report adopted.

SB 270, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 10.
Following: "TO" on line 5
Strike: remainder of line 5 through "CLARIFYING" on line 10
Insert: "CLARIFY"

2. Title, page 1, line 15.
Following: "CONTRACTOR;"
Insert: "REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO APPOINT AN INTERIM ADVISORY COMMITTEE TO STUDY ISSUES RELATED TO INDEPENDENT CONTRACTORS AND TO MAKE RECOMMENDATIONS TO THE 59TH LEGISLATURE;"

3. Page 4, line 19 through line 21.
Following: "department" on line 19

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Strike: remainder of line 19 through "department" on line 21

4. Page 4, lines 27 and 28.

Following: "approval" on line 27

Strike: "unless" through "(3)(b)" on line 28

5. Page 5, line 1.

Strike: ", along" through "(3)(b),"

6. Page 6, line 7.

Following: line 6

Insert: "NEW SECTION. Section 3. Study of independent contractor exemption. (1) The commissioner of labor and industry shall appoint an advisory committee that will serve on a volunteer basis to define the term "independent contractor" and study the issues related to exemptions of independent contractors from coverage under the Workers' Compensation Act.

(2) The advisory committee must consist of:

(a) members representing business and community interests;

(b) members representing workers' compensation insurers;

(c) members representing building contractors;

(d) members representing labor organizations; and

(e) a representative from the department of labor and industry.

(3) The committee is exempt from the requirements of 2-15-122 or 2-15-124.

(4) The department of labor and industry shall periodically report its findings and progress to the economic affairs interim committee, including any recommendations for proposed legislation to the 59th legislature regarding independent contractors."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 275, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: "ON"

Insert: "WITHIN 5 DAYS OF"

2. Title, page 1, line 12 through line 14.

Following: "THAT"

Strike: remainder of line 12 through "PERSON" on line 14

Insert: "MONEY PAID UNDER TITLE 53 TO PROVIDERS OF GOODS AND SERVICES IS EXEMPT FROM LEVY OR OTHER LEGAL PROCEEDINGS"

3. Page 4, line 13.

Strike: "on"

Insert: "within 5 days of"

4. Page 7, line 25.

Following: "title"

Strike: "and in subsection (2)"

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Following: "granted"

Insert: "to a needy person"

5. Page 7, line 28.

Following: "title"

Insert: "to a person or entity who is not a needy person but who receives the money for providing goods or services to a needy person"

6. Page 7, lines 29 and 30.

Following: "process" on line 29

Strike: remainder of line 29 through "person" on line 30

And, as amended, do pass. Report adopted.

SB 306, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "PENALTIES;"

Insert: "REQUIRING PAYMENT OF A \$200 BIENNIAL REGISTRATION OR RENEWAL FEE;"

2. Title, page 1, line 8.

Strike: the second "AND"

3. Title, page 1, line 9.

Following: "AGENT"

Insert: "; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF LABOR AND INDUSTRY; AND AMENDING SECTION 37-1-401, MCA"

4. Page 1, line 13.

Strike: "19"

Insert: "20"

5. Page 1, line 16.

Strike: "19"

Insert: "20"

6. Page 1, line 29.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

7. Page 2, line 2.

Following: line 1

Insert: "(5) "Department" means the department of labor and industry provided for in 2-15-1701."

Renumber: subsequent subsections

8. Page 2, line 16.

Strike: "19"

Insert: "20"

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9. Page 2, line 26.

Strike: "board"

Insert: "department"

10. Page 2, line 27.

Strike: "19"

Insert: "20"

11. Page 3, line 12.

Strike: "board" in two places

Insert: "department" in two places

12. Page 4, line 17.

Strike: "board"

Insert: "department"

13. Page 4, line 26.

Strike: "board"

Insert: "department"

14. Page 4, line 28.

Strike: "board" in two places

Insert: "department" in two places

15. Page 4, line 30.

Strike: "board"

Insert: "department"

16. Page 5, line 14.

Strike: "board"

Insert: "department"

17. Page 5, line 19.

Strike: "board"

Insert: "department"

18. Page 5, line 24.

Strike: "board"

Insert: "department"

19. Page 6, line 3.

Strike: "board"

Insert: "department"

20. Page 6, line 6.

Strike: "board"

Insert: "department"

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21. Page 6, line 9.

Strike: "board"

Insert: "department"

22. Page 6, line 12.

Following: "fees."

Insert: "(1)"

23. Page 6, line 13.

Following: "fee"

Strike: remainder of line 13 through "renewal" on line 14

Insert: "of \$200"

24. Page 6, line 15.

Following: line 14

Insert: "(2) All fees and money received by the department must be deposited in a state special revenue account for use by the department in performing the duties required by [sections 1 through 20]."

25. Page 8, line 8.

Strike: "board"

Insert: "department"

26. Page 8, line 20.

Strike: "19"

Insert: "20"

27. Page 9, line 5.

Strike: "19"

Insert: "20"

28. Page 9, line 9.

Strike: "19"

Insert: "20"

29. Page 9, line 18.

Strike: "19"

Insert: "20"

30. Page 9, line 21.

Strike: "board"

Insert: "department"

31. Page 9, line 22.

Strike: "19"

Insert: "20"

32. Page 9, line 25.

Strike: "19"

Insert: "20"

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33. Page 9, line 26.

Strike: "19"

Insert: "20"

34. Page 9, line 29.

Strike: "19"

Insert: "20"

35. Page 10, line 3.

Following: line 2

Insert: "NEW SECTION. Section 20. Rulemaking authority. The department may establish rules to administer and enforce [sections 1 through 20]."

Insert: "**Section 21.** Section 37-1-401, MCA, is amended to read:

"37-1-401. Uniform regulation for licensing programs without boards -- definitions. As used in this part, the following definitions apply:

(1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) "Department" means the department of labor and industry provided for in 2-15-1701.

(3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 35 or 72, or [sections 1 through 20]; or

(b) Title 50, chapter 39, 74, or 76.

(5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:

(a) Title 37, chapter 35 or 72, or [sections 1 through 20]; or

(b) Title 50, chapter 39, 74, or 76."

Renumber: subsequent sections

36. Page 10, line 4.

Strike: "19"

Insert: "20"

37. Page 10, line 5.

Strike: "23" in two places

Insert: "37" in two places

Strike: "19"

Insert: "20"

And, as amended, do pass. Report adopted.

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HIGHWAYS AND TRANSPORTATION (Butcher, Chairman): 2/19/2003
SB 345, do pass. Report adopted.

JUDICIARY (Grimes, Chairman): 2/19/2003
SB 400, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman): 2/19/2003
SB 326, introduced bill, be amended as follows:

1. Title, line 12 through line 13.
Strike: "REQUIRING" on line 12 through ";" on line 13

2. Page 5, line 19.
Strike: "shall"
Insert: "may"

And, as amended, do pass. Report adopted.

SB 340, introduced bill, be amended as follows:

1. Page 1, line 24.
Strike: "required"
Insert: "authorized"

And, as amended, do pass. Report adopted.

SB 343, introduced bill, be amended as follows:

1. Title, line 4.
Strike: "ALL"
Insert: "85 PERCENT"

2. Title, line 5.
Following: "DISTRICT;"
Insert: "PROHIBITING CREATION OF A DISTRICT IF FREEHOLDERS REPRESENTING 35 PERCENT OF THE TITLED PROPERTY OWNERSHIP PROTEST A DISTRICT'S ESTABLISHMENT;"

3. Page 1, line 12.
Strike: "all"
Insert: "85% "

4. Page 1, line 22.
Strike: "50% "
Insert: "35% "

And, as amended, do pass. Report adopted.

SB 384, do pass. Report adopted.
SB 393, do pass. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/18/2003

HB 97, introduced by Jent
HB 262, introduced by Fuchs
HB 390, introduced by Gallik
HB 433, introduced by P. Clark
HB 443, introduced by Lange
HB 511, introduced by Everett

House joint resolution passed and transmitted to the Senate for concurrence: 2/18/2003

HJR 8, introduced by Juneau

MOTIONS

SB 381 - Senator Tash moved **SB 381** be taken from the committee on Natural Resources and rereferred to the committee on Agriculture, Livestock and Irrigation. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 436, introduced by Shea, Anderson, Bales, Black, Curtiss, Esp, Forrester, Gallus, Gebhardt, Keane, Keenan, Laible, Laszloffy, Lenhart, Matthews, McCarthy, McGee, McNutt, Mendenhall, O'Neil, A. Olson, Pattison, Perry, Sprague, Stapleton, Tash, F. Thomas, referred to Natural Resources.
SB 437, introduced by Bales, Curtiss, Laible, Lambert, McGee, A. Olson, Ross, Shea, F. Thomas, referred to Natural Resources.
SB 438, introduced by DePratu, referred to Judiciary.
SB 439, introduced by Grimes, referred to Judiciary.
SB 440, introduced by Butcher, Taylor, Tester, referred to Agriculture, Livestock and Irrigation.
SB 441, introduced by D. Ryan, referred to Education and Cultural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Johnson in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 183 - Senator Bohlinger moved **SB 183** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 44

Nays: Anderson, Butcher, Esp, Laible, Story.

Total 5

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 243 - Senator Wheat moved **SB 243** do pass. Motion carried unanimously.

SB 295 - Senator Butcher moved **SB 295** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Mr. President.

Total 24

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Laible, Mangan, McCarthy, Nelson, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat, Zook.

Total 25

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 344 - Senator Laible moved **SB 344** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 356 - Senator Grimes moved **SB 356** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes,

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Johnson, Mahlum, McGee, Nelson, O'Neil, Perry, Sprague, Tash, Taylor, Tester, Thomas, Zook, Mr. President.
Total 26

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 383 - Senator Bales moved **SB 383** do pass. Motion carried unanimously.

Senator Cobb and Mangan excused at this time.

SB 398 - Senator Cromley moved **SB 398** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb, Mangan, Pease.
Total 3

Senators Cobb and Mangan present at this time.

SB 235 - Senator Bohlinger moved **SB 235** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Taylor, Tester, Thomas, Wheat, Zook, Mr. President.
Total 40

Nays: Cooney, Ellingson, Esp, Schmidt, Squires, Stonington, Tash, Toole, Tropila.
Total 9

Absent or not voting: None.
Total 0

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Excused: Pease.
Total 1

SB 295 - Senator Harrington moved **SB 295** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Esp, Hansen, Harrington, Mangan, McCarthy, Nelson, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 21

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cromley, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SJR 10 - Senator O'Neil moved **SJR 10** be adopted. Motion **failed** as follows:

Yeas: Anderson, Bales, Butcher, Cromley, Curtiss, Gebhardt, McGee, O'Neil, Taylor.
Total 9

Nays: Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 40

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SJR 10 - Senator Thomas moved **SJR 10** be **indefinitely postponed**. Motion carried as follows:

Yeas: Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 39

Nays: Anderson, Bales, Butcher, Curtiss, Gebhardt, Mangan, O'Neil, Ryan, Taylor, Tester.
Total 10

Absent or not voting: None.
Total 0

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Excused: Pease.
Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Johnson moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 204, requiring 2/3 of entire Legislature, received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.
Total 38

Nays: Butcher, Cooney, Cromley, Ellingson, Elliott, Johnson, O'Neil, Schmidt, Tester, Toole, Tropila.
Total 11

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 316 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 22 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan,

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McCarthy, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 46

Nays: McGee, Story, Mr. President.

Total 3

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

HB 51 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

HB 80 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

HB 112 concurred in as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Taylor.
Total 1

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 121 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 151 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

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HB 406 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HJR 6 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

MOTIONS

SB 341- Senator Thomas moved he be allowed to add Grimes as sponsor to **SB 341**. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, February 20, 2003. Motion carried.

Senate adjourned at 3:32 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
February 20, 2003

Senate Chambers
State Capitol

MOTIONS

Majority Leader Thomas moved that the Senate proceed to the House of Representatives for the purpose of receiving the address from Montana's U. S. Senator, The Honorable Conrad Burns, and further, upon adjournment of the joint session, the Senate will convene.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Clark escorted the Senate into the House chamber.

Speaker Mood recognized President Keenan and yielded the chair to him.

Senate Majority Leader Thomas moved the body resolve itself into a joint session for the purpose of receiving the address from Montana's U. S. Senator, The Honorable Conrad Burns. Motion carried.

Senate Majority Leader Thomas moved the President be authorized to appoint a committee of four to notify the Honorable U. S. Senator Burns that we are in joint session and ready to receive his address. Motion carried.

The President appointed Senator Barkus, Senator Tropila, Representative Gillan and Representative Fuchs to escort The Honorable U. S. Senator Burns into the House chambers.

Sergeant-at-arms Cramer admitted the escort committee and U. S. Senator Conrad Burns into the House chamber.

Invocation was given by Pastor Keith Johnson of the Evangelical Covenant Church, followed by the Pledge of Allegiance.

President Keenan welcomed U. S. Senator Burns to the joint session. Senator Burns then gave the following address:

Mr. Speaker, Mr. President, Governor Martz, Distinguished Members of the House and Senate, Special guests... Allow me to open with a heart-felt appreciation for your service to our State of Montana. The work you do for our state is noble and exemplifies the self sacrifice for the betterment of all Montanans.

Now that being said, the statement will not exempt you from your critics.

Thank you, and good afternoon. I know you all have a lot of work left to do, so I will keep this brief, and to the point.

Montana is currently confronted by challenges that threaten the future of our state. We suffer from a relentless drought; unemployment; a mounting deficit; a health care crisis; a sense of economic uncertainty.

Today, the engine of our economy is slow, but the problems we face are not just 'Montana' problems. States around the country face budget deficits and rising unemployment. New York, California, Florida, nearly every state in the union is struggling with its own problems.

Too often we focus on the bad, and ignore the good. I think that is a mistake. We need to look at our positives, and use them to correct our negatives. For example, last year, average unemployment in this nation was 6%.

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Montana is beating the national average, with an unemployment rate of 4.2%. This number decreased from 2001 when unemployment sat at 4.6%. This does not tell a story of a state in shambles. It tells a story of a state that's eager to work and to produce for America, but that should come as no surprise to Montanans.

Montana is different from much of America. Individuals - not corporations - constitute the backbone of our economy. The family operated business, farm or ranch; the small business owner. These are the businesses that allow our state economy to function. They typically employ less than 10 people, but they make up 72% of our state's businesses.

Most of our businesses focus on the basics, while keeping that vision of growth and expansion. They think about putting food on the table for their family, and those of their employees. They want to provide health care benefits, and they don't want to lay off workers, for their employees are more than a number, they are like extended family. These basics are more important than corporate jets, big CEO bonus packages, golden parachutes and vacation homes in the Bahamas.

In Montana, we are workhorses - not show horses.

Look at our agricultural community. We face water levels so low, you can walk across the Yellowstone at Livingston and not get your backside wet. New global markets and expanding international competition have depressed commodity prices. Yet we still produce some of the finest products available in the world today. There are those that express grave concern over free trade, and its erosion of our competitiveness, and our jobs. I share those concerns. I also understand that free trade is a reality we must live with, so rather than fight it, we must leverage it.

In Washington, I am working to ensure that free trade does not bypass Montana. I have founded the U.S. - Asia Network, an organization that aims to promote economic freedom and security between our two regions. I have also recently been named co-chair of the U.S. - Taiwan business council.

Asia is already a major export market for the United States, and I feel it provides the greatest potential for opportunity here in Montana. Today, five of the top ten U.S. export markets for agricultural products are in Asia. After Canada and Mexico, Taiwan and Japan are Montana's two largest trade partners. Montana is also a well-known commodity in Asia, thanks to the legacy of one of our state's great leaders, Senator Mike Mansfield.

If Montana is 'Open for Business', let's look at what we're selling. I see our producers and small businesses using this Asian market opportunity to move their 'Made in Montana' products to the global stage in even greater numbers. Remember this. People, not governments, will promote and preserve our prosperity.

We need to look at what we have on our shelves. We have bountiful natural resources such as coal, timber, coal bed methane, and petroleum reserves. These resources, used domestically or exported abroad, would provide an economic boost for our state while reducing our dependence on terrorist-sponsored energy in the middle east. These are possible solutions.

President Bush addressed the new frontier of energy in his State of the Union address when he talked of fuel cell research. I can't agree more. Montana holds great promise in clean, alternative energy production. We have a lot of sunshine, and from that we can harvest solar energy. We have an abundance of wind, (even when I'm not talking) and from that we can harvest energy. Most promising is hydrogen fuel cell energy, which I identified several years back as a great opportunity for Montana. Over the past several years, I have gotten funding for extensive research conducted in both Bozeman and Billings on this very technology, and Montana is a leader in our nation on this very important research.

We can't forget the need to provide better access to health care for Montanans. Insurance costs are skyrocketing, businesses are forced to pass those costs on to employees, and increasing numbers of people skip preventative care because of the impact on their pocketbook and a lack of adequate coverage. We need medical liability reform, as the

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costs of litigation on our medical professionals is driving health care cost increases on to everyone, and forcing dedicated, caring professionals out of practice. We need responsible prescription drug coverage, period. We need to expand medical savings accounts and provide tax incentives for health insurance coverage. We must continue our expansion of telemedicine to provide greater access and care for those in rural areas of our state. I am committed to doing what is right for Montanans, and will support common-sense changes to our health care benefits at the federal level.

It is easy to get bogged down in the negative as you continue your work here in the legislature. I think you need to see what is good and positive here in our state. Those assembled here are regular Montanans who try to do what is best for their family and their community. Your underlying goal is to make our state a better place. I have some regular Montanans who are doing extraordinary things in our state, and I want to introduce them to you:

The first person I would like to recognize is Dr. Joe McDonald, President of Salish Kootenai College in Pablo. Dr. McDonald founded Salish Kootenai College 27 years ago, with a group of 30 students and classrooms in an old condemned school building.

He has seen the college grow to serve 1500 students who attend classes in new buildings that were constructed from Montana timber by SKC carpentry students. He has fostered a strong faculty, an outstanding library, and a tribal business development and information center that supports economic development on the Flathead Reservation.

Dr. McDonald has been a role model and leader in the national tribal college movement; a movement that includes seven fully accredited colleges in Montana and 27 similar colleges in eleven other states. It is a movement that has offered thousands of Native Americans and non-Indians living on or near reservations the opportunity for an education and the promise of a good job.

Also here today is Mike McCue, Chairman and CEO of LigoCyte Pharmaceuticals. We are all aware of the threat of bio-terrorism, both here and abroad. LigoCyte is leading the nation in developing protection from those threats. This company has expanded its infectious disease program to help treat and prevent numerous infectious diseases. With assistance from federal research grants, they are helping to protect the lives of our military personnel as they continue working on a new anthrax vaccine, one that is progressing very well and has received attention from the Department of Defense.

Through the work of Mike and his company, many new employment opportunities have become available for students educated at Montana universities, something crucial to attracting and keeping our educated youngsters in Montana, and allowing our state to flourish.

I would also like to bring attention to Brian Wolf and Jenny Hansen, two very influential people in the growing world of technology in Montana.

Brian is the Chief Information Officer for the state of Montana, working to guide the implementation of information technology in the Montana State Government. He is also the Co-Chair of the Governor's Homeland Security Task Force. Jenny oversees 911 on the state level. I have worked closely with Jenny in my efforts to get 'e-911' up and running and at an acceptable level, the goal of which is to improve public safety by offering technology to emergency responders and allowing them to pinpoint the locations of a wireless user when calling 911. Jenny has also worked with the Governor's office to re-institute the Public Safety Services Office, and sits on numerous national councils, all associated with public safety.

Both Brian and Jenny have worked tirelessly to coordinate public safety in our state, promote new technology and growth, and forge new levels of agency cooperation, rapid response, and technological opportunity in Montana. Their efforts have made our communities safer, and our law enforcement and safety professionals more effective. This is a benefit to us all.

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Ladies and Gentlemen, let's give a round of applause to these dedicated Montanans.

As you finish this legislative session, give yourself the reminder that I do every single day. "Do No Harm". Your efforts, and those of countless other Montanans will plot our state a course for prosperity. We have the resources, we have the talent, we have the dedication. We will overcome these obstacles and continue our goal of making Montana a better place for our children, and our grandchildren.

Thank you for the work you do for our state. Thank you for your sacrifices. Thank you for taking the time from your busy schedule to listen to me. Now, get back to work!

President Keenan thanked U. S. Senator Conrad Burns for his address to the joint session. Speaker Mood requested the committee to escort Senator Burns and dignitaries from the House chambers.

Senate Majority Leader Thomas moved the joint session of the 58th Legislature, convened to receive the address from U. S. Senator Conrad Burns, be adjourned. Motion carried.

Joint session adjourned at 1:31 p.m.

Senate convened at 1:35 p.m.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-seventh legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 436, SB 437, SB 438, SB 439, SB 440, SB 441.**

Correctly engrossed: **SB 254, SB 270, SB 275, SB 306, SB 326, SB 340, SB 343.**

Examined by the sponsor and found to be correct: **SB 7.**

Signed by the Speaker at 10:00 a.m., February 20, 2003: **SB 7.**

Signed by the Secretary of the Senate at 10:00 a.m., February 20, 2003: **SB 7.**

Signed by the President at 10:00 a.m., February 20, 2003: **SB 7.**

Delivered to the Governor for approval at 10:45 a.m., February 20, 2003: **SB 7.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):

2/20/2003

HB 299, be amended as follows:

1. Page 1, line 14.

Strike: "MAY BE"

Insert: "is"

2. Page 1, line 17.

Following: "law."

Insert: "In the case of trespassing animals in a herd district, the liability and damage provisions of 81-4-307 apply."

And, as amended, be concurred in. Report adopted.

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BUSINESS AND LABOR (Mahlum, Chairman):
SB 304, introduced bill, be amended as follows:

2/19/2003

1. Title, page 1, line 4.

Strike: "THE GOVERNOR"

Insert: "A COMMITTEE"

2. Page 1, line 13.

Following: line 13

Insert: "NEW SECTION. Section 1. Study committee. (1) There is a committee to study the sale of the state compensation insurance fund as provided in [section 2]. The committee consists of:

(a) two members of the house of representatives appointed by the speaker, one from each party;

(b) two members of the senate appointed by the president, one from each party;

(c) a person appointed by the legislative auditor;

(d) a representative of the state auditor's office, appointed by the state auditor;

(e) a representative of the governor's office, appointed by the governor;

(f) an insured employer of the state fund who is also a member of the state fund board, appointed by the governor;

(g) an agent of a plan No. 2 insurer, appointed by the governor; and

(h) a representative of plan No. 1, appointed by the governor.

(2) The members of the committee, other than the legislator members, shall serve for no compensation but are entitled to reimbursement for travel, meals, and lodging as provided in Title 2, chapter 18, part 5. The legislator members are entitled to compensation and expenses as provided in 5-2-302.

(3) The costs of the committee and the expenses are the responsibility of the state compensation insurance fund."

3. Page 1, line 15.

Strike: "the governor"

Insert: "the committee established in [section 1]"

4. Page 1, line 18.

Strike: "governor"

Insert: "committee"

5. Page 1, line 22.

Strike: "governor"

Insert: "committee"

6. Page 1, line 23.

Strike: "subsection"

Insert: "subsections"

7. Page 1, line 24.

Strike: "governor"

Insert: "committee"

8. Page 1, line 26.

Strike: "governor"

Insert: "committee"

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9. Page 1, line 28.

Strike: "governor"

Insert: "committee"

10. Page 1, line 29.

Strike: "governor"

Insert: "committee"

And, as amended, do pass. Report adopted.

SB 331, introduced bill, be amended as follows:

1. Title, page 1, lines 5 and 6.

Following: "NURSING;" on line 5

Strike: "PROVIDING" through "PATIENTS;" on line 6

2. Page 2, lines 11 and 12.

Strike: subsection (c) in its entirety

And, as amended, do pass. Report adopted.

SB 337, introduced bill, be amended as follows:

1. Page 2, line 11.

Following: "A"

Insert: "civil action may not be commenced under this section against a person who furnished alcohol unless the person bringing the civil action provides notice of an intent to file the action to the person who furnished the alcohol by certified mail within 180 days from the date of sale or service. The"

2. Page 2, line 12.

Strike: "or exemplary"

And, as amended, do pass. Report adopted.

SB 377, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

2/20/2003

SB 205, do pass. Report adopted.

SB 307, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

Strike: "ELIMINATING" on line 6 through "BINDING;" on line 7

2. Page 2.

Following: line 8.

Insert: "(ii) be binding upon the district and the county treasurer for a negotiated period of time;"

Renumber: subsequent subsections

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3. Page 2, line 18.

Strike: "under 20-9-346(3)"

And, as amended, do pass. Report adopted.

SB 380, introduced bill, be amended as follows:

1. Page 1, line 26.

Strike: "operate"

Insert: "advise"

Strike: "bank"

Insert: "state-chartered bank, savings and loan association, trust company, investment company,"

2. Page 5, line 16.

Strike: "school"

Insert: "student"

3. Page 6, line 2.

Strike: "school financial institution."

4. Page 6, line 3.

Following: "foreign"

Insert: ", except for a student financial institution, as defined in [section 1],"

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

2/20/2003

SB 373, do pass. Report adopted.

SB 419, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

2/20/2003

SB 339, introduced bill, be amended as follows:

1. Page 4, line 1.

Following: "candidates."

Insert: "A candidate who has signed a voluntary spending limit affidavit has 10 days from notification by the secretary of state pursuant to subsection (2) to void the affidavit, pay the difference between the filing fee required of a participating candidate and a candidate who is not participating in the voluntary spending limit, and revise election materials pursuant to 13-35-225(1)(b)."

2. Page 5, line 7.

Following: "through 6."

Insert: "A candidate who files an affidavit has 10 days after any opponent files to reconsider, void the affidavit, and pay the difference in filing fees between the amount paid by a candidate participating in the Montana Voluntary Campaign Spending Limits Act under 13-10-202(2)(a) and a candidate not participating pursuant to 13-10-202(2)(b)."

And, as amended, do pass. Report adopted.

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SB 374, do pass. Report adopted.
HB 108, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

2/20/2003

SB 376, do pass. Report adopted.
SB 408, do pass. Report adopted.
SB 414, introduced bill, be amended as follows:

1. Page 1, line 18.

Strike: "was"

Insert: "is to be"

2. Page 1, line 19.

Strike: "and has been"

Insert: "to be"

3. Page 1, line 20.

Strike: "was"

Insert: "is to be"

4. Page 2, line 6.

Following: "of"

Insert: "alcohol for use in"

5. Page 2, line 7.

Following: the second "of"

Insert: "alcohol for use in"

6. Page 2, line 8.

Following: the second "of"

Insert: "alcohol for use in"

7. Page 2, line 15.

Following: the third "of"

Insert: "alcohol for use in"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate:

2/19/2003

SB 136, introduced by Butcher

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

2/19/2003

SB 195, introduced by Grimes

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House bills passed and transmitted to the Senate for concurrence:

2/20/2003

HB 408, introduced by Peterson
HB 450, introduced by Newman
HB 455, introduced by Lake
HB 480, introduced by Steinbeisser
HB 539, introduced by Brueggeman
HB 546, introduced by Wagman
HB 549, introduced by Dickenson
HB 577, introduced by Brueggeman

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 442, introduced by Stonington, Haines, referred to Fish and Game.
SB 443, introduced by Taylor, referred to Taxation.
SB 444, introduced by Tester, referred to Business and Labor.
SB 445, introduced by Barkus, Barrett, Lange, F. Thomas (by request of the Joint Select Committee on Districting and Apportionment), referred to Select Committee on Redistricting and Apportionment.
SB 446, introduced by Barkus, Brueggeman, Cooney, Laible, Lindeen, Sinrud (by request of the House Joint Appropriations Subcommittee on General Government and Transportation), referred to Finance and Claims.
SB 447, introduced by Grimes, Noennig, referred to Judiciary.
SB 448, introduced by Nelson, referred to State Administration.
SB 449, introduced by Cooney, referred to Public Health, Welfare and Safety.
SB 450, introduced by Cocchiarella, Brueggeman, Cyr, Keane, Mahlum, Matthews, McNutt, Roush, F. Thomas, Tropila, Wilson, referred to Business and Labor.
SB 451, introduced by Esp, referred to Public Health, Welfare and Safety.
SB 452, introduced by Taylor, referred to State Administration.
SB 453, introduced by Keenan, Mood, Elliott, McNutt, Tester, F. Thomas, referred to Taxation.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 22, introduced by McGee, Anderson, Barkus, Curtiss, Shea, Story, Tash, Taylor, F. Thomas (by request of the Senate Natural Resources Standing Committee), referred to Natural Resources.
SJR 23, introduced by Barkus, Barrett, Lange, F. Thomas (by request of House Joint Select Committee on Districting and Apportionment), referred to Select Committee on Redistricting and Apportionment.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 295 - Senator Butcher moved **SB 295** do pass. Motion carried as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 11 - Senator Schmidt moved **SJR 11** be adopted. Motion carried unanimously.

SJR 14 - Senator Curtiss moved **SJR 14** be adopted. Motion carried unanimously.

SJR 18 - Senator Harrington moved **SJR 18** be adopted. Motion carried as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 41

Nays: Bales, Barkus, Black, Butcher, Esp, Johnson, McGee, Stapleton, Zook.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 181 - Senator McNutt moved **HB 181** be concurred in. Motion carried unanimously.

HB 311 - Senator Laible moved **HB 311** be concurred in. Motion carried unanimously.

SB 400 - Senator Toole moved **SB 400** do pass. Motion carried unanimously.

SB 364 - Senator Cooney moved **SB 364**, second reading copy, be amended as follows :

1. Page 2, line 17.

Following: "(b)"

Insert: "(i)"

Following: "includes"

Insert: ": (A)"

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2. Page 2, line 18.

Following: "welfare"

Insert: ";

Strike: "including but not limited to"

Insert: "(B)"

3. Page 2, lines 20 through 24.

Following: "45-9-132" on line 20

Insert: "; or"

Strike: remainder of line 20 through "manufacturing" on line 24

Insert: "(C) the production or manufacture of"

Strike: "operating"

Insert: "the operation of"

4. Page 2, line 26.

Strike: "(A)"

Insert: "(I)"

Renumber: subsequent subsections

5. Page 3, line 1.

Following: page 2, line 30

Insert: "(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2."

Amendment **adopted** unanimously.

SB 364 - Senator Cooney moved **SB 364**, as amended, do pass. Motion carried with Senator Cromley voting nay.

SB 210 - Senator Elliott moved **SB 210** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Bohlinger, Cobb, Cooney, Curtiss, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Taylor, Tester, Toole, Tropila, Wheat.

Total 28

Nays: Barkus, Black, Butcher, Cocchiarella, Cromley, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Sprague, Stapleton, Story, Tash, Thomas, Zook, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 247 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 40

Nays: Cooney, Ellingson, Elliott, Hansen, Johnson, McNutt, Schmidt, Stonington, Tester, Toole.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 183 passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Anderson, Butcher, Esp, Laible, Stonington, Story.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 235 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Taylor, Thomas, Mr. President.
Total 36

Nays: Cooney, Ellingson, Esp, Mangan, Nelson, Schmidt, Squires, Stonington, Tash, Tester, Toole, Tropila, Wheat, Zook.
Total 14

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 243 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Johnson.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 344 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 356 failed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, Perry, Tash, Taylor, Tester, Thomas, Zook, Mr. President.
Total 24

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Toole, Tropila, Wheat.

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Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 383 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 398 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

FISH AND GAME (Sprague, Chairman):

2/19/2003

SB 184, introduced bill, be amended as follows:

1. Title, line 6.

Following: "HOLDER"

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Insert: ", WITH RENEWAL REQUIRED EVERY 8 YEARS; REQUIRING A BACKGROUND CHECK EVERY 4 YEARS; SUBSTITUTING A HANDGUN SAFETY COURSE FOR A HUNTER EDUCATION OR SAFETY COURSE AS A METHOD OF DEMONSTRATING FAMILIARITY WITH FIREARMS"

Following: "45-8-321"

Strike: ", "

Insert: "AND"

Following: "45-8-322,"

Strike: "45-8-323" through "45-8-326,"

2. Page 1, line 14.

Following: "applicant"

Insert: "if the permit is renewed every 8 years and the renewal is not denied"

3. Page 2, line 5.

Following: "permit"

Insert: "or a renewal of a permit"

4. Page 2, line 8.

Following: "application"

Insert: "or permit renewal"

Following: "applicant"

Insert: "or permittee"

5. Page 2, line 9.

Following: "applicant"

Insert: "or permittee"

6. Page 2, line 13.

Strike: "hunter education or"

Insert: "handgun"

7. Page 3, line 6.

Following: "~~renewal~~,"

Insert: "renewal,"

8. Page 5, line 26.

Following: "~~permit~~."

Insert: "The permit must be renewed for additional 8-year periods upon payment of a \$25 fee for each renewal and upon request for renewal made within 90 days before expiration of the permit."

Following: "~~renewal~~"

Insert: "and each renewal"

9. Page 5, line 27.

Following: "include the"

Insert: "date of issuance and the"

10. Page 6, line 4 through line 5.

Strike: "an original application" on line 4 through line 5.

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Insert: "a renewal"

11. Page 6, line 8.

Following: "fingerprinting."

Insert: "To ensure that the permit remains compliant with federal requirements pursuant to 45-8-330, for as long as it is necessary to do so to comply with federal requirements, the sheriff shall conduct a background check on the permitholder every 4 years from the date of issuance of the permit."

12. Page 6, line 15 through line 30.

Strike: section 3 through section 5 in their entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 250, introduced bill, be amended as follows:

1. Title, line 7 through line 9.

Strike: "ALLOWING" on line 7 through "ZONES;" on line 9

2. Page 2, line 20 through line 22.

Following: "land"

Strike: " " on line 20 through "zones" on line 22

And, as amended, do pass. Report adopted.

SB 253, introduced bill, be amended as follows:

1. Page 1, line 14.

Strike: "\$33"

Insert: "\$43.50"

2. Page 1, line 16.

Following: "10"

Strike: "calendar"

Insert: "consecutive"

3. Page 1, line 21.

Strike: "\$3"

Insert: "\$3.50"

4. Page 2, line 9.

Strike: "\$3"

Insert: "\$3.50"

And, as amended, do pass. Report adopted.

SB 287, introduced bill, be amended as follows:

1. Title, line 6.

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Following: "MAINTENANCE OF"

Insert: "PUBLIC BOATING FACILITIES AND BOATING FACILITIES AT"

2. Page 1, line 21.

Strike: "\$8.50"

Insert: "\$5"

3. Page 2, line 3.

Following: "must be"

Insert: "permanently"

Strike: "starboard" through "half of the"

4. Page 2.

Strike: line 4

5. Page 2, line 10.

Strike: "or"

Insert: "(d) a pedal-powered boat; or"

Renumber: subsequent subsection

6. Page 2, line 13.

Following: the second "department"

Strike: "for"

Insert: "as follows"

7. Page 2, line 14.

Following: "(a)"

Insert: "up to 15% may be used for"

Strike: ", " through "enforcement"

8. Page 2, line 15 through line 16.

Strike: subsections (b) and (c) in their entirety

Insert: "(b) up to 10% may be used for boating and water safety education and enforcement; and

(c) remaining funds must be used for operating, maintaining, developing, and acquiring fishing access sites and recreational boat access sites.

(9) The department shall adopt rules after a negotiated rulemaking process with the department and affected interests under Title 2, chapter 5, part 1. The rules must be based on user surveys taken at the point of decal sale."

9. Page 3, line 14.

Following: "to"

Insert: "a special revenue account to the credit of"

10. Page 3, line 15.

Strike: "\$7.50"

Insert: "\$5.50"

11. Page 3, line 17.

Following: "public"

Strike: "boat"

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Insert: "motorboat"

Following: "facilities"

Insert: ", including motorboat-accessible fishing access sites,"

Strike: "to manage"

Insert: "for management of"

12. Page 3, line 18.

Strike: "including"

Following: "education"

Insert: ", "

13. Page 4, line 27.

Strike: "\$8.50"

Insert: "\$6.50"

And, as amended, do pass. Report adopted.

SJR 15, be adopted. Report adopted.

JUDICIARY (Grimes, Chairman):

2/20/2003

SB 397, do pass. Report adopted.

MOTIONS

SB 210 - Senator Zook moved **SB 210** be taken from the third reading board and rereferred to the committee on Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 12:00 noon, Friday, February 21, 2003. Motion carried.

Senate adjourned at 3:19 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-NINTH LEGISLATIVE DAY**

Helena, Montana
February 21, 2003

Senate Chambers
State Capitol

Senate convened at 12:02 p.m. President Keenan presiding. Invocation by Senator McGee. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-eighth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 442, SB 443, SB 444, SB 445, SB 446, SB 447, SB 448, SB 449, SB 450, SB 451, SB 452, SB 453, SJR 22, SJR 23.**

Correctly engrossed: **SB 184, SB 250, SB 253, SB 287, SB 304, SB 307, SB 331, SB 337, SB 339, SB 364, SB 380, SB 414, HB 299.**

Correctly enrolled: **SB 136.**

Examined by the sponsor: **SB 136.**

FINANCE AND CLAIMS (Zook, Chairman):
SB 115, introduced bill, be amended as follows:

2/20/2003

1. Title, page 1, line 8.

Following: the first "FOR"

Insert: "THE COOPERATIVE DEVELOPMENT CENTER, FOR"

2. Page 4, line 9.

Following: "17-7-502,"

Strike: "to the department of commerce"

3. Page 4, following line 10.

Insert: "(i) \$65,000 to the cooperative development center;
(ii) to the department of commerce:"

4. Page 4, line 11.

Strike: "(i)"

Insert: "(A)"

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):
SB 315, introduced bill, be amended as follows:

2/21/2003

1. Title, page 1, line 4.

Strike: "REQUIRING"

Insert: "PROVIDING FOR"

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2. Page 1, line 25.

Following: "shall"

Insert: ", subject to subsection (3),"

3. Page 2, line 11.

Strike: "may pursue"

Insert: "shall secure"

4. Page 2, lines 11 and 12.

Strike: "assist" on line 11 through "covering" on line 12

Insert: "cover"

Following: "study." on line 12

Insert: "If funding is insufficient, the requirements for the study are void."

And, as amended, do pass. Report adopted.

SB 413, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

2/20/2003

SB 363, introduced bill, be amended as follows:

1. Page 1, line 19.

Following: "million"

Insert: "or 3% of a defendant's net worth, whichever is less"

2. Page 1, line 19 through line 20.

Following: "₪" on line 19

Strike: remainder of line 19 through "worth." on line 20

And, as amended, do pass. Report adopted.

SB 389, introduced bill, be amended as follows:

2/21/2003

1. Page 1, line 23.

Strike: "4"

Insert: "3"

2. Page 2, line 5 through line 6.

Following: "out of the" on line 5

Strike: remainder of line 5 through "planning," on line 6

3. Page 2, line 6.

Following: "supervision,"

Strike: "inspection,"

4. Page 2, line 11.

Following: "with"

Insert: "contract specifications or"

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5. Page 2, line 12.

Following: "means"

Strike: "an architect,"

Insert: "a"

Following: "contractor,"

Insert: "or"

Following: "subcontractor"

Strike: ", "

6. Page 2, line 13.

Following: line 12

Strike: "engineer, or inspector"

Following: "the"

Strike: "design, specification, surveying,"

7. Page 2, line 13 through line 14.

Following: "supervision" on line 13

Strike: remainder of line 13 through "observation" on line 14

8. Page 2, line 26 through line 29.

Strike: subsection (9) in its entirety

9. Page 3, line 8.

Following: line 7

Strike: "construction-related"

Insert: "construction defect"

10. Page 3, line 8 through line 9.

Following: "toll" on line 8

Strike: remainder of line 8 through "barred" on line 9

11. Page 4, line 2 through line 3.

Following: "residence" on line 2

Strike: remainder of line 2 through "hours" on line 3

Insert: ", as agreed by the parties,"

12. Page 4, line 12.

Following: "statement"

Strike: "that"

Insert: "setting forth the reasons why"

13. Page 4, line 27.

Following: "(4)(b)(i)"

Insert: "or (4)(b)(iii)"

14. Page 5, line 5.

Strike: "4"

Insert: "3"

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15. Page 5, line 10 through line 12.

Strike: subsection (8) in its entirety

Insert: "(8) This section may not be enforced unless the homeowner has been given written notice of the requirements of [sections 1 through 3]."

16. Page 5, line 14 through line 22.

Strike: section 3 in its entirety

Renumber: subsequent sections

17. Page 5, line 24.

Strike: "Residential construction"

Insert: "Construction defect"

Following: "--"

Strike: "limitation on"

18. Page 6, line 1.

Following: "due to"

Strike: "structural failure"

Insert: "a construction defect"

19. Page 6, line 2.

Following: "reasonable"

Insert: "costs"

Following: "and"

Strike: "necessary"

20. Page 6, line 3 through page 7, line 13.

Strike: subsections (2) through (5) in their entirety

Renumber: subsequent subsection

21. Page 7, line 14.

Strike: "4"

Insert: "3"

22. Page 8, line 7.

Strike: "4"

Insert: "3"

23. Page 8, line 9.

Strike: "4"

Insert: "3"

And, as amended, do pass. Report adopted.

SB 434, introduced bill, be amended as follows:

1. Title, line 7.

Following: line 6

Insert: "REMOVING GOVERNMENTAL IMMUNITY FOR BAD FAITH;"

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2. Page 1, line 16.

Strike: "The"

Insert: "Except for willful misconduct or gross negligence, the"

3. Page 1, line 23.

Following: "private"

Insert: "emergency"

4. Page 1, line 24.

Following: "authority"

Insert: "for emergency response activities"

5. Page 1, line 25 through line 26.

Following: "(f)"

Strike: "except for willful misconduct, gross negligence, or bad faith,"

And, as amended, do pass. Report adopted.

SB 438, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

2/20/2003

SB 401, introduced bill, be amended as follows:

1. Title, page 1, line 20.

Following: "10-2-603,"

Insert: "15-1-122,"

2. Page 4, line 18.

Following: "2-18-503."

Insert: "Compensation for the legislator who represents the state administration and veterans' affairs interim committee must be paid from the board of veterans' affairs budget."

3. Page 6, line 18.

Following: "Money"

Strike: "collected" through "61-3-321,"

Insert: "transferred pursuant to 15-1-122(3)(g)"

4. Page 6, line 23.

Following: "services"

Insert: "federal account in the"

5. Page 6, line 24.

Strike: "and known" through "federal account"

6. Page 7, line 19.

Following: "in the"

Insert: "veterans' services"

Strike: "special revenue"

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7. Page 7, line 23.

Strike: "state special revenue"

8. Page 8, line 22.

Strike: "special revenue"

9. Page 8, line 24.

Following: "5]"

Insert: "unless the amount is included as a deduction under 15-30-121(1)(a)"

10. Page 9, line 5.

Insert: "**Section 12.** Section 15-1-122, MCA, is amended to read:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, \$36,764 for fiscal year 2003. Beginning with fiscal year 2004, the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account the following amounts:

(a) \$75,000 in fiscal year 2003;

(b) \$2,960,715 in fiscal year 2004; and

(c) in each succeeding fiscal year, the amount in subsection (2)(b), increased by 1.5% in each succeeding fiscal year.

(3) For fiscal year 2002 and for each succeeding fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5:

(i) \$2 for each new application for a motor vehicle title and for each transfer of a motor vehicle title for which a fee is paid pursuant to 61-3-203; and

(ii) \$1 for each passenger car or truck under 8,001 pounds GVW registered for licensing pursuant to Title 61, chapter 3, part 3. Fifteen cents of each dollar must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any portion of the 15 cents not used for abandoned vehicle removal reimbursement during the calendar year following its payment must be used as provided in 75-10-532;

(b) to the noxious weed state special revenue account provided for in 80-7-816:

(i) \$1 for each off-highway vehicle subject to payment of the fee in lieu of tax, as provided for in 23-2-803; and

(ii) \$1.50 for each light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicles weighing more than 1 ton, motorcycle, quadricycle, and motor home subject to registration or reregistration pursuant to 61-3-321;

(c) to the department of fish, wildlife, and parks:

(i) \$2.50 for each motorboat, sailboat, or personal watercraft receiving a certificate of number under 23-2-512, with 20% of the amount received to be used to acquire and maintain pumpout equipment and other boat facilities;

(ii) \$5 for each snowmobile registered under 23-2-616, with \$2.50 to be used for enforcing the purposes of 23-2-601 through 23-2-644 and \$2.50 designated for use in the development, maintenance, and operation of snowmobile facilities;

(iii) \$1 for each duplicate snowmobile decal issued under 23-2-617;

(iv) \$5 for each off-highway vehicle decal issued under 23-2-804 and each off-highway vehicle duplicate decal issued under 23-2-809, with 40% of the money used to enforce the provisions of 23-2-804 and 60% of the money used to develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use;

(v) to the state special revenue fund established in 23-1-105, \$3.50 for each recreational vehicle, camper, motor home, and travel trailer registered or reregistered and subject to the fee in 61-3-321 or 61-3-524; and

(vi) an amount equal to 20% of the funds collected pursuant to 23-2-518 to be deposited in the motorboat account to be used as provided in 23-2-533;

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(d) to the state veterans' cemetery account, provided for in 10-2-603, \$10 for each veteran's license plate issued pursuant to 61-3-332(10)(a)(ii), (10)(f), and (10)(h);

(e) to the supplemental benefits for highway patrol officers' retirement account provided for in 19-6-709, 25 cents for each motor vehicle registered, other than trailers or semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and

(f) 25 cents a year for each vehicle subject to the fee in 61-3-321(6) for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112.

(g) 50 cents a year for each vehicle subject to the fee in 61-3-321(7) for deposit in the state special revenue fund to the credit of the veterans' services account provided for in [section 3(1)].

(4) For fiscal year 2002, there is transferred from the state general fund to the state special revenue fund to be used for purposes of state funding of district court expenses, as provided in 3-5-901, \$5,742,983 in lieu of the amount deposited by the state treasurer under 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001.

(5) For each fiscal year, beginning with fiscal year 2002, the department of justice shall provide to the department of revenue a count of the vehicles required for the calculations in subsection (3). Transfer amounts for fiscal year 2002 must be based on vehicle counts for calendar year 2000. Transfer amounts in each succeeding fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle information is available.

(6) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes.""

Renumber: subsequent sections

11. Page 10, lines 15 and 16.

Following: "collected"

Strike: "for deposit" on line 15 through "[section 3(1)]" on line 16

12. Page 10, line 17.

Strike: "account"

Insert: "general fund"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/20/2003

HB 458, introduced by Musgrove

HB 532, introduced by Stoker

HB 548, introduced by Jent

HB 552, introduced by B. Ryan

HB 562, introduced by Ballantyne

HB 580, introduced by Bitney

House joint resolutions passed and transmitted to the Senate for concurrence:

2/20/2003

HJR 16, introduced by Mendenhall

HJR 22, introduced by Ripley

MOTIONS

SB 356 - Senator Grimes moved the Senate reconsider its action in not passing **SB 356** on third reading, the thirty-eighth legislative day. Motion carried as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Perry, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.

Total 31

Nays: Cocchiarella, Cooney, Ellingson, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Schmidt, Squires, Tester, Toole, Tropila.

Total 17

Absent or not voting: Curtiss.

Total 1

Excused: Stonington.

Total 1

SB 356 - Senator Grimes moved **SB 356** be taken from third reading and rereferred to the committee on Judiciary. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 454, introduced by Story, referred to Education and Cultural Resources.

SB 455, introduced by Cooney, referred to State Administration.

SB 456, introduced by Esp, referred to Natural Resources.

SB 457, introduced by Cooney, Barkus, Brueggeman, Laible, Lindeen, Sinrud, referred to Business and Labor.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 24, introduced by O'Neil, Barkus, Black, Butcher, Curtiss, Jackson, Juneau, Kitzenberg, Pease, Roush, referred to State Administration.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 295 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 19

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 400 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 11 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 14 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 18 adopted as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Bales, Barkus, Esp, Johnson, Stapleton.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 181 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Esp, Gebhardt, Stapleton.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 311 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 12:45 p.m. this day for party caucuses.
Motion carried.

Senate recessed at 12:18 p.m.
Senate reconvened at 12:45 p.m.

Roll Call. All members present. Quorum present. Invocation by Pastor Jim Fiedler from the First Presbyterian Church.

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman):
SB 282, introduced bill, be amended as follows:

2/21/2003

1. Title, page 1, line 5.

Strike: "40"

Insert: "32"

Strike: "5"

Insert: "4"

2. Title, page 1, line 6.

Strike: "6"

Insert: "5"

3. Page 1, lines 13 and 14.

Following: "~~Compensation~~" on line 13

Strike: remainder of line 13 through "compensation" on line 14

Insert: "Compensation"

Strike: "40" on line 14

Insert: "32"

Strike: "5"

Insert: "4"

4. Page 1, line 16.

Strike: "6th"

Insert: "5th"

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5. Page 1, lines 18 and 19.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

6. Page 1, line 20.

Strike: "(4)"

Insert: "(3)"

7. Page 1, line 22.

Strike: "5-day"

Insert: "4-day"

And, as amended, do pass. Report adopted.

SJR 17, be adopted. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/21/2003

SJR 13, introduced joint resolution, be amended as follows:

1. Title, page 1, line 6.

Following: "LAWS"

Insert: "AND OTHER ENERGY EFFICIENCY AND CONSERVATION PRACTICES"

2. Page 2, line 1.

Strike: "and"

3. Page 2, line 2.

Following: "Montana"

Insert: "; and

(3) investigate and evaluate other options for improving energy efficiency and conservation practices"

And, as amended, be adopted. Report adopted.

FISH AND GAME (Sprague, Chairman):

2/21/2003

SB 221, do pass. Report adopted.

SB 336, do pass. Report adopted.

SJR 16, introduced joint resolution, be amended as follows:

1. Title, line 8.

Following: "ENDANGERED"

Insert: "OR THREATENED"

2. Page 1, line 13.

Following: "endangered"

Insert: "or threatened"

3. Page 1, line 15.

Following: "endangered"

Insert: "or threatened"

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4. Page 1, line 25.

Following: "kills"

Strike: "a"

Insert: "an endangered or"

5. Page 1, line 26.

Following: "endangered"

Insert: "or threatened"

6. Page 2, line 3.

Following: "endangered"

Insert: "or threatened"

7. Page 2, line 7.

Following: "endangered"

Insert: "or threatened"

8. Page 2, line 16.

Following: "endangered"

Insert: "or threatened"

9. Page 2, line 19.

Following: "endangered"

Insert: "or threatened"

Following: line 19

Insert: "BE IT FURTHER RESOLVED, that the Montana Department of Fish, Wildlife, and Parks continue its efforts to encourage the U.S. Fish and Wildlife Service to interpret "normal behavioral patterns" in a way that does not include behavior that threatens livestock, pets, or humans."

And, as amended, be adopted. Report adopted.

JUDICIARY (Grimes, Chairman):

2/21/2003

SB 439, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "INGESTION"

Insert: "CONSUMPTION"

Following: "METHAMPHETAMINE"

Insert: "BY ANY MEANS"

2. Title, line 6 through line 7.

Following: "DRUG;" on line 6

Strike: remainder of line 6 through "METHAMPHETAMINE;" on line 7

3. Title, line 8.

Following: "METHAMPHETAMINE"

Strike: "IN ANY KIND OF MOTOR VEHICLE"

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4. Page 1, line 17.

Following: "includes"

Strike: "ingestion"

Insert: "consumption by any means"

5. Page 2, line 2.

Following: "or"

Insert: "or"

Following: "(4)"

Strike: ", or (6)"

6. Page 2, line 4 through line 6.

Strike: subsection (6) in its entirety

Renumber: subsequent subsections

7. Page 2, line 16.

Following: "methamphetamine"

Strike: "in any kind of motor vehicle, as defined in 61-1-102"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

2/21/2003

SB 293, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "AND REQUIRE"

2. Title, lines 6 and 7.

Strike: ""FAST-GROWING" on line 6 through the first "AND" on line 7

3. Title, line 7 through line 9.

Strike: "REQUIRING" on line 7 through "POLICY;" on line 9

4. Title, line 10.

Strike: "PLANNING BOARD"

Insert: "CITY COUNCIL, BOARD OF COUNTY COMMISSIONERS,"

Strike: the second "BY"

5. Page 1, lines 22 and 23.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

6. Page 2, lines 6 and 7.

Strike: subsection (11) in its entirety

Renumber: subsequent subsections

7. Page 3, lines 16 and 17.

Strike: subsection (2)(f) in its entirety

Renumber: subsequent subsections

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8. Page 4, line 18.

Strike: "planning board"

Insert: "city council within its planning jurisdiction or a board of county commissioners within its planning jurisdiction"

9. Page 4, line 23.

Following: "located"

Insert: "in the designation of quality growth areas immediately adjacent to that city"

10. Page 4, line 27.

Following: "a"

Insert: "net"

Following: "acre"

Insert: "or at a net density equaling the net density of the nearest unincorporated developed area or municipality, whichever is closest"

11. Page 5, line 1.

Strike: "must"

Insert: "may"

12. Page 5, line 22.

Strike: "a higher"

Insert: "the"

Following: "priority"

Insert: "provided in 90-6-710"

13. Page 6, lines 12 and 13.

Strike: subsection (3)(b) in its entirety

Renumber: subsequent subsections

14. Page 6, lines 19 and 20.

Strike: subsection (3)(f) in its entirety

Renumber: subsequent subsections

15. Page 6, line 25.

Strike: "and"

Insert: "(g) projects that serve a quality growth area jointly designated by any combination of more than one city, town, or county in a quality growth plan pursuant to [section 3] and projects that serve a quality growth area designated solely by a city, town, or county in a quality growth plan pursuant to [section 3]; and"

Renumber: subsequent subsection

16. Page 7, lines 12 and 13.

Strike: subsection (2)(b) in its entirety

Renumber: subsequent subsections

17. Page 7, lines 19 and 20.

Strike: subsection (2)(f) in its entirety

Renumber: subsequent subsections

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18. Page 7, line 25.

Strike: "and"

Insert: "(g) projects that serve a quality growth area jointly designated by any combination of more than one city, town, or county in a quality growth plan pursuant to [section 3] and projects that serve a quality growth area designated solely by a city, town, or county in a quality growth plan pursuant to [section 3]; and"

Renumber: subsequent subsection

And, as amended, do pass. Report adopted.

SB 399, introduced bill, be amended as follows:

1. Page 1, line 22.

Following: "49 U.S.C. 20153(c)."

Insert: "In developing the petition, the governing body of the municipality or the board of county commissioners shall consult with the railroad corporations that operate the rail lines through crossings that are within the proposed quiet zone."

And, as amended, do pass. Report adopted.

SB 406, introduced bill, be amended as follows:

1. Page 2, line 23.

Following: "sewer."

Insert: "A subsequent change in the use of the land to a residential use is subject to the requirements of this chapter."

And, as amended, do pass. Report adopted.

SB 426, do pass. Report adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 254 - Senator Cooney moved **SB 254** do pass. Motion carried with Senators DePratu, Glaser and O'Neil voting nay. Senator DePratu declared a conflict of interest pertaining to **SB 254**, because he owns a small rental car agency.

SB 275 - Senator Laible moved **SB 275** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, McCarthy, Pease, Roush, Ryan, Schmidt,

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Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 355 - Senator McGee declared a potential conflict of interest pertaining to **SB 355** because he is a registered land surveyor.

SB 355 - Senator McGee moved **SB 355** do pass. Motion carried unanimously.

SB 306 - Senator D. Ryan moved **SB 306** do pass. Motion carried with Senators Esp and O'Neil voting nay.

SB 308 - Senator Taylor moved **SB 308** do pass. Motion carried unanimously.

SB 345 - Senator Elliott moved **SB 345** do pass. Motion carried unanimously.

SB 384 - Senator Mangan moved **SB 384** do pass. Motion carried with Senators Esp, Johnson and Laible voting nay.

SB 393 - Senator Kitzenberg moved **SB 393** do pass. Motion carried unanimously.

SB 270 - Senator Harrington moved **SB 270** do pass. After discussion, Senator Harrington made a **substitute motion** that consideration of **SB 270** be moved to the bottom of the second reading board. Motion carried .

SJR 15 - Senator Nelson moved **SJR 15** be adopted. Motion carried with Senator Butcher voting nay.

SB 408 - Senator Nelson moved **SB 408** do pass. Motion carried unanimously.

Senator Pease excused at this time.

SB 326 - Senator McGee moved **SB 326** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

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Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 404 - Senator Toole moved **SB 404** be taken from the committee on Business and Labor and rereferred to the State Administration committee. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, February 22, 2003. Motion carried.

Senate adjourned at 3:17 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FORTIETH LEGISLATIVE DAY**

Helena, Montana
February 22, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Wheat, excused. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-ninth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 454, SB 455, SB 456, SB 457, SJR 24.**

Correctly engrossed: **SB 115, SB 282, SB 293, SB 315, SB 363, SB 389, SB 399, SB 401, SB 406, SB 434, SB 439, SJR 13, SJR 16, SJR 17.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/21/2003

HB 190, introduced by Younkin

HB 536, introduced by Brueggeman

MOTIONS

SB 337 - Senator Tropila moved consideration of **SB 337** be passed until the forty-second legislative day, February 25, 2003. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 458, introduced by McNutt, Forrester, Laszloffy, Shea, Sprague, referred to Business and Labor.

SB 459, introduced by McCarthy, DePratu, Elliott, Glaser, Golie, Harrington, Keenan, Mangan, McNutt, F. Thomas, referred to Taxation.

SB 460, introduced by Story, referred to Taxation.

SB 461, introduced by Story, Brueggeman, Stonington, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 25, introduced by Bohlinger (by request of the Senate Local Government Standing Committee), referred to Local Government.

SJR 26, introduced by Bohlinger (by request of the Senate Local Government Standing Committee), referred to Local Government.

SJR 27, introduced by Johnson, Mahlum, Toole (by request of the Senate Business and Labor Standing Committee), referred to Business and Labor.

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The following House bills were introduced, read first time, and referred to committees:

HB 17, introduced by Newman (by request of the Attorney General), referred to Judiciary.

HB 55, introduced by Facey (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 56, introduced by B. Thomas (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.

HB 61, introduced by Laslovich, referred to Judiciary.

HB 97, introduced by Jent (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 101, introduced by Jent (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 129, introduced by Gutsche (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 152, introduced by Fisher (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 158, introduced by Haines (by request of the Department of Public Health and Human Services), referred to Finance and Claims.

HB 178, introduced by Fritz, referred to State Administration.

HB 184, introduced by Wilson (by request of the State Auditor), referred to Business and Labor.

HB 185, introduced by Wilson (by request of the Department of Justice), referred to Highways and Transportation.

HB 186, introduced by Matthews (by request of the Department of Justice), referred to Business and Labor.

HB 190, introduced by Younkin (by request of the Secretary of State), referred to State Administration.

HB 194, introduced by Barrett (by request of the Secretary of State), referred to State Administration.

HB 198, introduced by Lambert, referred to State Administration.

HB 201, introduced by Jent (by request of the Secretary of State), referred to State Administration.

HB 203, introduced by A. Olson (by request of the Secretary of State), referred to State Administration.

HB 206, introduced by Younkin (by request of the Department of Justice), referred to Finance and Claims.

HB 211, introduced by Newman (by request of the Department of Corrections), referred to Judiciary.

HB 214, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.

HB 226, introduced by Gillan, referred to Highways and Transportation.

HB 247, introduced by Harris, referred to Judiciary.

HB 252, introduced by Hedges, referred to State Administration.

HB 253, introduced by Hedges, referred to State Administration.

HB 262, introduced by Fuchs, Balyeat, Gallus, Shockley, referred to Fish and Game.

HB 264, introduced by Gibson, referred to Local Government.

HB 269, introduced by Bergren, Matthews, referred to Local Government.

HB 270, introduced by Bergren, referred to Highways and Transportation.

HB 272, introduced by Gillan, Buzzas, Forrester, Franklin, Harrington, Jent, Lenhart, Smith, referred to Finance and Claims.

HB 277, introduced by Lindeen, Barkus, Branae, R. Brown, Buzzas, Cocchiarella, Esp, Fisher, Gebhardt, Gibson, Haines, Hedges, Laible, Matthews, McCarthy, Mood, Nelson, Pattison, D. Ryan, Shea, Smith, referred to State Administration.

HB 284, introduced by Gillan, Buzzas, referred to Judiciary.

HB 292, introduced by Younkin, referred to Natural Resources.

HB 293, introduced by Smith, Bixby, Cooney, Ellingson, Franklin, Hedges, Jayne, Juneau, Pease, Roush, Small-Eastman, Tropila, Windy Boy, referred to Judiciary.

HB 303, introduced by A. Olson, Bales, Keane, Lange, Matthews, McGee, Peterson, referred to Natural Resources.

HB 304, introduced by A. Olson, Bales, Lange, Matthews, McGee, Peterson, referred to Energy and Telecommunications.

HB 305, introduced by Peterson, Bales, Mood, Nelson, Sprague, Witt, Younkin, referred to State Administration.

HB 306, introduced by, Andersen Balyeat, Bitney, Black, Bookout-Reinicke, D. Brown, Brueggeman, P. Clark,

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Cohenour, Everett, Forrester, Fuchs, Gallus, Gibson, Golie, Haines, Jackson, Lake, Lambert, Lange, Laslovich, Laszloffy, Lewis, Maedje, McGee, Mendenhall, Mood, Perry, Roberts, Rome, Sales, Sinrud, Schrupf, Shea, Shockley, Sprague, Tropila, Wagman, Weiss, Wheat, Witt, referred to Fish and Game.

HB 308, introduced by Musgrove, Tester, referred to Judiciary.

HB 325, introduced by Witt, Barrett, Bergren, E. Clark, Fisher, Haines, Hedges, Kasten, Lehman, Lenhart, Matthews, Musgrove, Pattison, Peterson, Ripley, Steinbeisser, Waitschies, referred to Agriculture, Livestock and Irrigation.

HB 326, introduced by Newman, Cyr, Gallus, Harrington, Laslovich, Lewis, McCarthy, Rome, Shea, referred to Natural Resources.

HB 331, introduced by Gallus, DePratu, Grimes, Lawson, B. Ryan, Tester, Younkin, referred to Judiciary.

HB 333, introduced by Waitschies, referred to Local Government.

HB 337, introduced by Ripley, Anderson, Bales, Black, D. Brown, Curtiss, Dowell, Fisher, Fuchs, Galvin-Halcro, Glaser, Golie, Hedges, Kasten, Keenan, Lindeen, Mangan, McGee, McNutt, Mood, Nelson, Peterson, Ross, Roush, D. Ryan, Smith, Sprague, Squires, Tester, Tropila, Wagman, Witt, referred to Energy and Telecommunications.

HB 339, introduced by Pattison, Butcher, Hedges, Peterson, Ross, Smith, Tash, Waitschies, referred to Local Government.

HB 350, introduced by Cohenour, referred to Judiciary.

HB 353, introduced by Laszloffy, McGee, referred to State Administration.

HB 359, introduced by Galvin-Halcro, Bookout-Reinicke, Gillan, Lawson, Wilson, referred to Finance and Claims.

HB 364, introduced by Bergren, Ballantyne, Branae, Hansen, Jacobson, Lambert, Lenhart, Parker, Rice, B. Ryan, Steinbeisser, Tester, Witt, referred to Agriculture, Livestock and Irrigation.

HB 369, introduced by Younkin, Newman, referred to Highways and Transportation.

HB 372, introduced by Cyr, Bergren, P. Clark, Fuchs, Keane, Laslovich, Newman, Windy Boy, referred to Fish and Game.

HB 373, introduced by A. Olson, Bales, Ballantyne, Brueggeman, E. Clark, Devlin, Forrester, Gebhardt, Gillan, Keane, Lange, Lenhart, Maedje, Mangan, Matthews, McGee, McNutt, Mendenhall, B. Olson, Peterson, Ripley, Roberts, Rome, B. Ryan, Sinrud, Story, Zook, referred to Natural Resources.

HB 378, introduced by Small-Eastman, referred to Agriculture, Livestock and Irrigation.

HB 384, introduced by McKenney, referred to Business and Labor.

HB 385, introduced by Fritz, referred to Business and Labor.

HB 390, introduced by Gallik, referred to Judiciary.

HB 392, introduced by Weiss, referred to Energy and Telecommunications.

HB 396, introduced by Gibson, P. Clark, Golie, Weiss, referred to Fish and Game.

HB 400, introduced by Gillan, Forrester, Galvin-Halcro, Golie, A. Olson, referred to Education and Cultural Resources.

HB 402, introduced by Parker, Ballantyne, Becker, Bergren, Branae, Carney, Cocchiarella, Cooney, Dickenson, Dowell, Everett, Facey, Franklin, Gallus, Galvin-Halcro, Gibson, Golie, Hansen, Harris, Jacobson, Jent, Keane, Lange, Laslovich, Lawson, Lehman, Lenhart, Maedje, Malcolm, Mangan, McKenney, Musgrove, Newman, A. Olson, Raser, Ripley, B. Ryan, Schmidt, Shea, Squires, Stoker, Tester, B. Thomas, Wanzenried, Weiss, Wilson, referred to Judiciary.

HB 408, introduced by Peterson, Cyr, Devlin, Lawson, Witt, referred to Local Government.

HB 410, introduced by Younkin, referred to Business and Labor.

HB 414, introduced by Balyeat, Everett, Fuchs, Sales, referred to Highways and Transportation.

HB 420, introduced by Lake, Barrett, Jackson, Keane, Lambert, Mendenhall, Morgan, Peterson, referred to Agriculture, Livestock and Irrigation.

HB 424, introduced by Jent, referred to Energy and Telecommunications.

HB 427, introduced by Gutsche, referred to Natural Resources.

HB 428, introduced by Keane, Barrett, Forrester, Gallus, Grimes, Laslovich, Lenhart, Matthews, McCarthy, Mendenhall, Newman, Olson, B. Ryan, Shea, Smith, F. Thomas, referred to Natural Resources.

HB 433, introduced by P. Clark, Butcher, Cobb, Elliott, Windy Boy, referred to Natural Resources.

HB 435, introduced by Sinrud, Ballantyne, Barkus, Bookout-Reinicke, D. Brown, E. Clark, Dowell, Golie, Haines,

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Lake, Lewis, Mood, Morgan, Roberts, Ross, Sales, Witt, referred to Legislative Administration.

HB 436, introduced by A. Olson, Andersen, Bales, Barrett, Forrester, Gillan, Hurwitz, Jackson, Keane, Laible, Lake, Lambert, Lange, Laszloffy, Lehman, Lindeen, Maedje, Matthews, McNutt, B. Olson, Rice, Ripley, Roberts, Rome, Ross, Steinbeisser, Stoker, B. Thomas, Wagman, referred to Natural Resources.

HB 438, introduced by Forrester, Glaser, D. Ryan, referred to Business and Labor.

HB 443, introduced by Lange, A. Olson, referred to Natural Resources.

HB 445, introduced by Pattison, Barkus, Hedges, Peterson, Witt, referred to Agriculture, Livestock and Irrigation.

HB 448, introduced by Harris, referred to Judiciary.

HB 450, introduced by Newman, referred to State Administration.

HB 451, introduced by E. Clark, referred to Judiciary.

HB 453, introduced by Raser, referred to Judiciary.

HB 455, introduced by Lake, Branae, Haines, Hawk, Hurwitz, Mendenhall, Morgan, Ripley, Schrupf, referred to Agriculture, Livestock and Irrigation.

HB 456, introduced by Parker, Facey, Franklin, Mangan, Newman, referred to Judiciary.

HB 458, introduced by Musgrove, Hansen, Ripley, Tester, referred to Highways and Transportation.

HB 471, introduced by Wanzenried, Stapleton, Tester, referred to Finance and Claims.

HB 474, introduced by Weiss, Gallik, referred to Business and Labor.

HB 478, introduced by Peterson, referred to Judiciary.

HB 480, introduced by Steinbeisser, Lawson, B. Olson, Rome, Smith, Stoker, referred to Judiciary.

HB 489, introduced by Lehman, referred to Judiciary.

HB 490, introduced by Buzzas, Bookout-Reinicke, Callahan, E. Clark, Cohenour, Erickson, Facey, Fisher, Franklin, Fritz, Gallik, Gallus, Gillan, Gutsche, Haines, Harris, Kaufmann, Lawson, Raser, Wilson, referred to Taxation.

HB 496, introduced by Becker, Newman, Harris, referred to Judiciary.

HB 501, introduced by Noennig, referred to Business and Labor.

HB 507, introduced by Brueggeman, referred to Business and Labor.

HB 511, introduced by Everett, Barkus, Brueggeman, DePratu, Keenan, Lange, Lewis, Sales, referred to Local Government.

HB 521, introduced by Balyeat, Shockley, referred to Judiciary.

HB 525, introduced by Keane, E. Clark, Cooney, Jacobson, A. Olson, referred to Business and Labor.

HB 532, introduced by Stoker, referred to State Administration.

HB 536, introduced by Brueggeman, referred to Judiciary.

HB 539, introduced by Brueggeman, referred to Business and Labor.

HB 546, introduced by Wagman, Parker, Shockley, referred to Judiciary.

HB 548, introduced by Jent, referred to State Administration.

HB 549, introduced by Dickenson, Barrett, Bergren, Callahan, Forrester, Golie, Jacobson, Jent, Kaufmann, Laslovich, Lewis, Malcolm, Tropila, Younkin, referred to Highways and Transportation.

HB 552, introduced by B. Ryan, referred to Taxation.

HB 555, introduced by Bitney, referred to Business and Labor.

HB 562, introduced by Ballantyne, referred to Energy and Telecommunications.

HB 577, introduced by Brueggeman, referred to Business and Labor.

HB 580, introduced by Bitney, referred to Energy and Telecommunications.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 3, introduced by B. Lawson (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

HJR 4, introduced by Lange, referred to Natural Resources.

HJR 8, introduced by Juneau, Bixby, Smith, referred to Education and Cultural Resources.

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HJR 9, introduced by Smith, Bixby, Cooney, Ellingson, Franklin, Hedges, Jayne, Juneau, Lenhart, Pease, Roush, Small-Eastman, Tropila, Windy Boy, referred to Public Health, Welfare and Safety.

HJR 10, introduced by Lawson, referred to Education and Cultural Resources.

HJR 11, introduced by Smith, Bixby, Bohlinger, Buzzas, Gallik, Hedges, Lenhart, Parker, Pease, Roberts, Roush, referred to Education and Cultural Resources.

HJR 12, introduced by Fuchs, Balyeat, Bookout-Reinicke, Everett, Fisher, Gallus, Gillan, Haines, Hawk, Hedges, Jackson, Jacobson, Lake, Lambert, Lange, Maedje, Matthews, Mendenhall, Mood, Morgan, A. Olson, Peterson, Rice, Ross, B. Ryan, Sales, Schrumpf, Steinbeisser, Stoker, B. Thomas, Wagman, Witt, referred to Judiciary.

HJR 13, introduced by Hurwitz, Buzzas, Grimes, Keenan, A. Olson, referred to Public Health, Welfare and Safety.

HJR 14, introduced by Bixby, referred to Public Health, Welfare and Safety.

HJR 15, introduced by Wagman, Andersen, Barrett, Brueggeman, P. Clark, Fisher, Fuchs, Haines, Hawk, Hurwitz, Jackson, Lake, Lambert, Lange, Lawson, Lehman, Lewis, Maedje, Mendenhall, Pattison, Rice, Ripley, Roberts, Rome, Ross, Sales, Schrumpf, Sinrud, Steinbeisser, Stoker, B. Thomas, referred to Agriculture, Livestock and Irrigation.

HJR 16, introduced by Mendenhall, F. Thomas, referred to Energy and Telecommunications.

HJR 17, introduced by Peterson, Ballantyne, Becker, Bergren, Bixby, Bookout-Reinicke, D. Brown, Brueggeman, Callahan, Cyr, Devlin, Dickenson, Fritz, Fuchs, Galvin-Halcro, Golie, Haines, Hawk, Hedges, Jacobson, Jent, Kasten, Lake, Laszloffy, Lehman, Lewis, Lindeen, Malcolm, Mendenhall, Morgan, Musgrove, Newman, Pattison, Raser, Rice, Ross, Sales, Schrumpf, Sinrud, Shockley, Small-Eastman, Wanzenried, Waitschies, Windy Boy, Witt, Younkin, referred to Agriculture, Livestock and Irrigation.

HJR 18, introduced by Waitschies, Andersen, Anderson, Bales, Ballantyne, Barkus, Becker, Bergren, Bixby, Bohlinger, Bookout-Reinicke, Branae, Butcher, Callahan, Carney, E. Clark, P. Clark, Cobb, Curtiss, Dowell, Facey, Fisher, Forrester, Fritz, Galvin-Halcro, Gebhardt, Gibson, Gillan, Glaser, Golie, Grimes, Haines, Harris, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Kitzenberg, Laible, Lake, Laslovich, Laszloffy, Lawson, Lehman, Malcolm, Matthews, McNutt, Mendenhall, Musgrove, Newman, A. Olson, Peterson, Raser, Rice, Ripley, Roberts, Ross, Roush, Schrumpf, Shockley, Sinrud, Steinbeisser, Stoker, Taylor, F. Thomas, Wagman, Wanzenried, Witt (by request of the House Agriculture Standing Committee), referred to Agriculture, Livestock and Irrigation.

HJR 20, introduced by Roberts, D. Brown, referred to Business and Labor.

HJR 22, introduced by Ripley, Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, Cohenour, Fisher, Franklin, Gallik, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Haines, Harris, Hurwitz, Juneau, Keane, Lake, Laszloffy, Lehman, Lenhart, Morgan, Musgrove, A. Olson, Parker, Pattison, Raser, Roberts, Schrumpf, Smith, Steinbeisser, Stoker, Windy Boy, Younkin, referred to State Administration.

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 8:45 p.m. this legislative day for purpose of party caucuses. Motion carried.

Senate recessed at 8:09 a.m.

Senate reconvened at 8:55 a.m.

Roll call. All members present. Quorum present.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 364 passed as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Cromley.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 254 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 44

Nays: Curtiss, DePratu, Glaser, McGee, O'Neil, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 275 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 31

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 306 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: McGee, O'Neil, Thomas.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 308 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Butcher, Ryan.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 326 passed as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 345 passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 46

Nays: Anderson, Curtiss, Gebhardt, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 355 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 384 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Esp, Johnson, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SB 393 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Cobb.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 408 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 15 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Butcher, Esp.

Total 2

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

MOTIONS

SB 275 - Senator McCarthy moved she be allowed to change her vote on **SB 275**, third reading this legislative day, from yea to nay. Motion carried.

SB 326 - Senator Stonington moved she be allowed to change her vote on **SB 326**, third reading this legislative day, from yea to nay. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 340 - Senator Grimes moved **SB 340** do pass. Motion carried with Senator Tropila voting nay.

SB 343 - Senator Laible moved **SB 343** do pass. After discussion, Senator Stonington made a **substitute motion** that **SB 343**, second reading copy, be amended as follows :

1. Title, page 1, line 4.

Strike: "85"

Insert: "60"

2. Title, page 1, line 6.

Strike: "35"

Insert: "50"

3. Page 1, line 14.

Strike: "85%"

Insert: "60%"

4. Page 1.

Following: line 20

Insert: "(4) Upon petition of 60% of the affected freeholders, the board of county commissioners may annex a district into an existing and adjoining planning and zoning district."

Renumber: subsequent subsections

5. Page 1, line 21.

Strike: "(5)"

Insert: "(6)"

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6. Page 1, line 24.

Strike: "35%"

Insert: "50%"

Amendment **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 343 - Senator Laible moved **SB 343** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Johnson, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 205 - Senator Cobb moved **SB 205** do pass. Motion carried with Senators Esp and Stapleton voting nay.

Senator Grimes rose on a point of personal privilege saying he objected to remarks made by Senator Butcher towards the High School Association.

Senator Butcher rose on a point of personal privilege and apologized to the High School Association and the Senate for his earlier remarks during debate.

SB 373 - Senator Laible moved **SB 373**, second reading copy, be amended as follows :

1. Page 1, line 20.

Following: "a"

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Insert: "generally recognized"

Following: "private"

Insert: "or public"

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Taylor, Tester, Thomas, Zook, Mr. President.

Total 30

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Toole, Tropila, Wheat.

Total 19

Absent or not voting: Tash.

Total 1

Excused: None.

Total 0

SB 373 - Senator Laible moved **SB 373**, as amended, do pass. Motion **failed** as follows:

Yeas: Anderson, Barkus, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Taylor, Thomas, Mr. President.

Total 19

Nays: Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Zook.

Total 31

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 373 - Senator Tester moved SB 373 be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Zook.

Total 33

Nays: Barkus, Black, Butcher, Curtiss, DePratu, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Taylor, Thomas, Mr. President.

Total 17

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ryan rose on a point of personal privilege to clarify that the Montana S.A.T. scores for public schools had an above average rating.

Chairman McGee explained that personal privilege was reserved for comments concerning a Senator, not for any other point.

Senator Cocchiarella rose on a point of personal privilege and said Senator Laible, in his closing, stated she was against public schooling, which she disagreed with, and said she definitely supports public schooling.

Senator Laible rose on a point of personal privilege and apologized to Senator Cocchiarella for anything he said that was offensive to her.

SB 377 - Senator Mahlum moved **SB 377** do pass. Motion carried unanimously.

SB 397 - Senator Curtiss moved **SB 397** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Laible, Mahlum, McGee, O'Neil, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.
Total 19

Nays: Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.
Total 31

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 397 - Senator Ellingson moved **SB 397** be **indefinitely postponed**. Motion carried as follows:

Yeas: Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tester, Toole, Tropila, Wheat.
Total 34

Nays: Anderson, Bales, Black, Butcher, Curtiss, DePratu, Glaser, Mahlum, McGee, O'Neil, Sprague, Tash, Taylor, Thomas, Zook, Mr. President.
Total 16

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SB 374 - Senator Laible moved **SB 374** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 374 - Senator Nelson moved **SB 374** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 298 - Senator F. Thomas moved **SB 298** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 19

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise, report and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Tash, Chairman):
SB 194, introduced bill, be amended as follows:

2/22/2003

1. Title, page 1, line 6.

Strike: "TRIBAL"

Insert: "INDIAN"

2. Page 2, line 5.

Strike: "tribal"

Insert: "Indian"

3. Page 2, line 7.

Strike: "tribal"

Insert: "Indian"

Following: "rights."

Insert: "Any interim agreement entered into pursuant to this subsection (4):

(a) must provide for new ground water uses for domestic and municipal purposes. Except for the criterion in 85-2-311(1)(a)(ii), an interim agreement must establish criteria for new water uses that incorporate the criteria listed in 85-2-311.

(b) must provide for changes in existing appropriation rights within the exterior boundaries of the reservation. An interim agreement must establish criteria for changes in existing appropriation rights that incorporate the criteria listed in 85-2-402.

(c) must provide a secure right to use water to an appropriation of water under the interim agreement in the event of the termination of the interim agreement, quantification of reserved water rights, or termination of negotiations of reserved water rights under 85-2-704;

(d) must maintain the jurisdictional claims of each party to the interim agreement;

(e) must protect each party against a waiver of the right to challenge the claims of each party at any time;

(f) may not prejudice the regulatory or adjudicatory jurisdiction of either party;

(g) must provide that none of the activities of each party in the negotiation or implementation of an interim agreement may be used to affect the equitable or legal position of either party in any future litigation; and

(h) must provide that nothing in the negotiation or implementation of an interim agreement may be considered as enlarging or diminishing the jurisdiction or authority of either party within the reservation."

And, as amended, do pass. Report adopted.

SB 321, do pass. Report adopted.

SB 410, introduced bill, be amended as follows:

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1. Title, line 7.

Strike: "REDUCING THE MANDATORY"

Insert: "REMOVING THE MAXIMUM"

2. Title, line 8.

Following: "UNDERTAKING"

Insert: "AND PROVIDING A MINIMUM AMOUNT OF A WRITTEN UNDERTAKING"

3. Page 2, line 2.

Strike: "may"

Insert: "shall"

Following: "undertaking"

Insert: "at the amount of the anticipated expenses and income loss"

And, as amended, do pass. Report adopted.

SB 416, do pass. Report adopted.

SB 417, introduced bill, be amended as follows:

1. Title, page 1, line 8 through line 9.

Strike: "PROVIDING" through "COMPACT;"

2. Page 1, line 18.

Strike: "(10)"

Insert: "(9)"

3. Page 3, line 24 through line 25.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

4. Page 4, line 7.

Strike: "(10)"

Insert: "(9)"

And, as amended, do pass. Report adopted.

SJR 7, introduced joint resolution, be amended as follows:

1. Page 1, line 11.

Following: "wildfires"

Insert: "and changed forest ecosystem conditions"

2. Page 1, line 17.

Strike: "that all" through "fires;"

3. Page 2, line 10.

Strike: "within a 10-year period"

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4. Page 2, line 20.

Following: "fuel"

Insert: "based on desired future forest conditions"

5. Page 2, line 22.

Following: "forest"

Strike: "succession"

Insert: "processes"

And, as amended, be adopted. Report adopted.

SJR 19, be adopted. Report adopted.

SJR 22, introduced joint resolution, be amended as follows:

1. Page 1, line 19 through line 20.

Strike: "strike" on line 19 through "East has" on line 20

Insert: "events in Venezuela and other international problems have"

2. Page 2, line 10.

Following: "WHEREAS,"

Insert: "environmentally responsible"

And, as amended, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

2/22/2003

SB 192, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "REPEALING" through "REQUIRING"

Insert: "ELIMINATING THE REQUIREMENT FOR"

2. Title, page 1, line 5.

Strike: "CERTAIN"

Insert: "A HOME"

Strike: "CARE FACILITIES"

Insert: "AGENCY TO EXPAND ITS GEOGRAPHICAL SERVICE AREA; REVISING THE DEFINITION OF
"HEALTH CARE FACILITY" BY OMITTING NONFEDERAL HOME HEALTH AGENCY FROM THE
DEFINITION"

3. Title, page 1, line 5 through line 6.

Following: "AMENDING" on line 5

Strike: "SECTIONS" on line 5 through "SECTIONS" on line 6

Insert: "SECTION"

4. Title, page 1, line 7.

Strike: "50-5-302" through "50-5-310,"

5. Page 1, line 12 through page 12, line 24.

Strike: everything after the enacting clause

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Insert: "Section 1. Section 50-5-301, MCA, is amended to read:

"50-5-301. When certificate of need is required -- definitions. (1) Unless a person has submitted an application for and is the holder of a certificate of need granted by the department, the person may not initiate any of the following:

(a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure that exceeds \$1.5 million, other than to acquire an existing health care facility. The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting, and other services) essential to the acquisition, improvement, expansion, or replacement of any plant with respect to which an expenditure is made must be included in determining if the expenditure exceeds \$1.5 million.

(b) a change in the bed capacity of a health care facility through an increase in the number of beds or a relocation of beds from one health care facility or site to another, unless:

(i) the number of beds involved is 10 or less or 10% or less of the licensed beds, if fractional, rounded down to the nearest whole number, whichever figure is smaller, and no beds have been added or relocated during the 2 years prior to the date on which the letter of intent for the proposal is received;

(ii) a letter of intent is submitted to the department; and

(iii) the department determines that the proposal will not significantly increase the cost of care provided or exceed the bed need projected in the state health care facilities plan;

(c) the addition of a health service that is offered by or on behalf of a health care facility that was not offered by or on behalf of the facility within the 12-month period before the month in which the service would be offered and that will result in additional annual operating and amortization expenses of \$150,000 or more;

(d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or more of an existing health care facility unless:

(i) the person submits the letter of intent required by 50-5-302(2); and

(ii) the department finds that the acquisition will not significantly increase the cost of care provided or increase bed capacity;

(e) the construction, development, or other establishment of a health care facility that is being replaced or that did not previously exist, by any person, including another type of health care facility;

~~(f) the expansion of the geographical service area of a home health agency;~~

~~— (g)(f) the use of hospital beds in excess of five to provide services to patients or residents needing only skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are defined in 50-5-101;~~

~~(h)(g) the provision by a hospital of services for home health care, long-term care, or inpatient chemical dependency treatment; or~~

~~(i)(h) the construction, development, or other establishment of a facility for ambulatory surgical care through an outpatient center for surgical services in a county with a population of 20,000 or less according to the most recent federal census or estimate.~~

(2) For purposes of this part, the following definitions apply:

(a)(i) "Health care facility" or "facility" means ~~a nonfederal home health agency~~; a long-term care facility; or an inpatient chemical dependency facility.

(ii) The term does not include:

~~(i)(A)~~ a hospital, except to the extent that a hospital is subject to certificate of need requirements pursuant to subsection ~~(i)(h)~~ (1)(g);

~~(ii)(B)~~ an office of a private physician, dentist, or other physical or mental health care professionals, including chemical dependency counselors; or

~~(iii)(C)~~ a rehabilitation facility or an outpatient center for surgical services.

(b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or more individuals.

(ii) The term does not include residential care facilities, as defined in 50-5-101; community homes for persons with developmental disabilities, licensed under 53-20-305; community homes for persons with severe disabilities, licensed

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under 52-4-203; boarding or foster homes for children, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals not requiring institutional health care; or juvenile and adult correctional facilities operating under the authority of the department of corrections.

(3) This section may not be construed to require a health care facility to obtain a certificate of need for a nonreviewable service that would not be subject to a certificate of need if undertaken by a person other than a health care facility.""

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 3. Applicability. [This act] applies to a person who has submitted a letter of intent or an application for a certificate of need received by the department of public health and human services pursuant to Title 50, chapter 5, part 3, before, on, or after [the effective date of this act]."

And, as amended, do pass. Report adopted.

SB 347, introduced bill, be amended as follows:

1. Title, line 13.

Strike: the second "AND"

2. Title, line 14.

Following: "MCA"

Insert: "; AND PROVIDING EFFECTIVE DATES"

3. Page 1, line 18.

Strike: "5"

Insert: "6"

4. Page 1, line 30.

Following: "agencies"

Strike: "and"

Insert: ", "

Following: "authorities"

Strike: ". "

Insert: ", mental health professionals, and other entities providing services to persons with mental illness.

(3) shall specifically address:

(a) provider contracting and credentialing;

(b) service planning;

(c) preadmission screening and discharge planning;

(d) quality management;

(e) utilization management and review;

(f) consumer and family education; and

(g) rights protection;"

Renumber: subsequent subsections

5. Page 2, line 7.

Strike: "must"

Insert: "may"

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6. Page 2, line 22.

Following: "for"

Strike: "mental illness"

Insert: "the mentally ill"

Following: the second "illness,"

Insert: "mental health professionals, county commissioners,"

7. Page 2, line 25.

Strike: the first "mental health"

Following: "services"

Insert: "for the mentally ill"

Strike: "consumers of mental health services"

Insert: "persons with mental illness"

8. Page 3, line 3.

Strike: "5"

Insert: "6"

9. Page 3, line 18.

Strike: "5"

Insert: "6"

10. Page 3, line 20.

Strike: "and"

11. Page 3, line 22.

Following: "board"

Insert: "; and

(i) shall either include a county commissioner or work closely with county commissioners in the service area"

12. Page 4, line 17.

Insert: "(4) The department or a service area authority shall develop contracts to be bid competitively under guidelines adopted by the department of administration pursuant to 18-4-133, 18-4-305, or 18-4-306 for all services provided by licensed mental health centers to ensure accountability and that necessary services are delivered in all areas of the state."

13. Page 4, line 18.

Following: "through"

Strike: "5"

Insert: "6"

14. Page 4, line 19.

Following: "centers"

Insert: "or of any other appropriately certified or licensed mental health center or mental health professional"

15. Page 4, line 20.

Insert: "NEW SECTION. **Section 6. Availability of services.** (1) The services funded by the department are available without discrimination on the basis of race, color, creed, religion, or ability to pay and must comply with Title VI of the Civil Rights Act of 1964.

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(2) Services available to individuals unable to pay may be limited by the department based upon availability of funding."

Insert: "NEW SECTION. Section 7. Policy directive on transition to service area authorities. (1) The department shall develop a plan by January 31, 2004, for the transition to the administration of the delivery of public mental health services by service area authorities beginning July 1, 2004. It is expected that service area authorities will be implemented statewide over a 4-year period.

(2) By June 1, 2004, the department shall define the role of the existing community mental health centers, which must be licensed mental health centers, as a part of the transition plan. If the role includes any special designation, the department shall define the special designation and the reasons for any special designation by administrative rule, and the rule proceedings must include a public hearing that specifically includes persons with mental illness and their family members from across the state.

(3) The department shall report on the transition plan to the children, families, health, and human services interim committee at each committee meeting and provide the transition plan to the committee by January 31, 2004."

Renumber: subsequent sections

16. Page 6, line 3.

Strike: "5"

Insert: "6"

17. Page 7, line 21.

Strike: "5"

Insert: "6"

18. Page 11, line 12.

Following: "(a)"

Insert: "(a)"

19. Page 11, line 21.

Following: line 20

Insert: "(b) The professional person in charge of the facility shall submit a written response to the board within 10 working days of the receipt of the board's written findings provided for in subsection (7)(a) that includes an explanation of the facility's point of view regarding the board's concerns, including areas of disagreement and agreement. If the facility is in full or partial agreement with the board's concerns, its written response must include actions that it has taken or that it plans to take to address the concerns.

(c) If the facility's written response does not resolve the concerns to the board's satisfaction, the board and the professional person in charge of the facility shall meet in person within 15 working days of the board's receipt of the facility's response to arrive at a mutually agreed upon resolution."

20. Page 12, line 8 through line 9.

Following: "community" on line 8

Strike: remainder of line 8 through "center" on page 9

Following: "53-21-201" on line 9

Insert: "qualified mental health care provider as arranged by the county"

21. Page 12, line 19.

Following: "Repealer."

Insert: "(1)"

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Strike: "53-21-201,"

Strike: "53-21-204,"

22. Page 12, line 21.

Insert: "(2) Sections 53-21-201 and 53-21-204, MCA, are repealed."

23. Page 12, line 22.

Strike: "5"

Insert: "6"

24. Page 12, line 24.

Strike: "5"

Insert: "6"

25. Page 12, line 28.

Following: line 27

Insert: "NEW SECTION. Section 16. Effective dates. (1) [Sections 1 through 12, 13(1), and 14 and this section] are effective October 1, 2003.

(2) [Section 13(2)] is effective July 1, 2004."

And, as amended, do pass. Report adopted.

SB 348, introduced bill, be amended as follows:

1. Page 1, line 25.

Following: "available"

Insert: "and agree to accept transfer of the patient based on admission criteria"

2. Page 2, line 6.

Following: "provide"

Strike: "intensive"

Insert: "inpatient"

3. Page 2, line 10.

Following: ";

Insert: "and"

4. Page 2, line 11 through line 12.

Strike: subsection(b) in its entirety

Renumber: subsequent subsections

5. Page 3, line 2.

Following: "providing"

Strike: "intensive"

6. Page 10, line 11.

Following: "available"

Insert: "and agree to accept transfer of the patient based on admission criteria"

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And, as amended, do pass. Report adopted.

HB 150, be concurred in. Report adopted.

SELECT COMMITTEE ON REDISTRICTING AND APPORTIONMENT (Barkus, Chairman): 2/22/2003
SB 445, do pass. Report adopted.
SJR 23, be adopted. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman): 2/22/2003
SB 322, introduced bill, be amended as follows:

1. Title, line 18.

Strike: "PROVIDING A FUND TRANSFER;" on line 18

2. Page 2, lines 10 through 17.

Strike: subsections (a) through (d) in their entirety

Renumber: subsequent subsections

3. Page 7, line 3.

Following: "."

Insert: "The commissioner shall deposit the qualifying contribution in the public money election campaign fund."

4. Page 7, line 27.

Following: "funding."

Insert: "The commissioner's determination must be based on the documentation provided by the candidate applying for public money funding."

5. Page 8, line 4.

Following: "commissioner."

Insert: "The commissioner's determination must be based upon a finding made in a contested case proceeding held pursuant to Title 2, chapter 4, part 6."

6. Page 12, line 14.

Strike: "prompt"

7. Page 14, lines 29 and 30.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

8. Page 15, lines 8 through 11.

Strike: subsection (6) in its entirety

Renumber: subsequent subsection

9. Page 15, line 19.

Strike: "30"

Insert: "45"

10. Page 15, line 27.

Following: "fees"

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Insert: "from the other party"

11. Page 16, line 1.

Following: "fees"

Insert: "from the other party"

12. Page 16, line 7.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

13. Page 16, line 18.

Following: "obligation"

Insert: ", as follows:

- (a) for amounts up to 105% of the permissible amount, the excess expenditures;
- (b) for amounts between 105% and 115% of the permissible amount, twice the amount of the excess expenditures; and
- (c) for amounts in excess of 115% of the permissible amount, five times the amount of the excess expenditures"

14. Page 17, line 8.

Insert: "(4) Fines paid must be deposited in the public money election campaign fund."

15. Page 17, line 9.

Strike: "The"

Insert: "If the money in the public money election campaign fund is inadequate to fund all requests for public funding, the"

16. Page 17, line 28.

Following: "(3)"

Insert: "(a)"

Strike: "Money"

Insert: "Except as provided in subsection (3)(b), money"

17. Page 17.

Following: line 30

Insert: "(b) If the balance in the public money election campaign fund, except amounts borrowed under [section 25], is \$200,000 or more, then the money received under this section must be deposited in the state general fund."

18. Page 18, line 21.

Following: "(3)"

Insert: "(a)"

Strike: "Money"

Insert: "Except as provided in subsection (3)(b), money"

19. Page 18.

Following: line 23

Insert: "(b) If the balance in the public money election campaign fund, except amounts borrowed under [section 25], is \$200,000 or more, then the money received under this section must be deposited in the state general fund."

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20. Page 22, line 21 through line 24.

Strike: section 32 in its entirety

Renumber: subsequent sections

21. Page 23, line 2.

Strike: "through 33, 35, and 36"

Insert: ", 32, 34, and 35"

22. Page 23, line 4.

Following: "applicability"

Insert: "-- applicability"

Following: "applicability."

Insert: "(1)"

23. Page 23, line 6.

Following: line 5

Insert: "(2) [Sections 1 through 25] apply to judicial elections after the balance in the public money election campaign fund reaches \$200,000. The state treasurer shall notify the secretary of state, the commissioner of political practices, and the code commissioner of the date that the public money election campaign fund reaches \$200,000."

And, as amended, do pass. Report adopted.

SB 405, introduced bill, be amended as follows:

1. Page 1, line 25.

Following: "more"

Insert: "a year"

And, as amended, do pass. Report adopted.

SB 423, introduced bill, be amended as follows:

1. Page 1, line 20.

Strike: "\$1,000"

Insert: "\$500"

2. Page 1, line 22.

Strike: "\$500"

Insert: "\$250"

3. Page 1, line 23.

Strike: "\$250"

Insert: "\$130"

4. Page 2, line 9.

Strike: "\$37,500"

Insert: "\$18,000"

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5. Page 2, line 11.

Strike: "~~\$12,500~~"

Insert: "\$6,500"

6. Page 2, line 12.

Strike: "~~\$5,000~~"

Insert: "\$2,600"

7. Page 2, line 13.

Strike: "~~\$2,000~~"

Insert: "\$1,050"

8. Page 2, line 14.

Strike: "~~\$1,250~~"

Insert: "\$650"

9. Page 2, line 22.

Following: "2003."

Insert: "The resulting figure must be rounded up or down to the nearest \$50 increment."

10. Page 2, line 26.

Strike: "~~\$2,500~~"

Insert: "\$1,300"

11. Page 2, line 28.

Strike: "~~\$1,500~~"

Insert: "\$800"

12. Page 3, line 2.

Strike: "off"

Insert: "up or down"

13. Page 3, line 11.

Strike: "~~\$75~~"

Insert: "\$50"

14. Page 3, line 26.

Strike: "~~\$75~~"

Insert: "\$50"

15. Page 4, line 6.

Following: "2003."

Insert: "The resulting figure must be rounded up or down to the nearest \$50 increment."

16. Page 4, line 29.

Strike: "~~\$375,000~~"

Insert: "\$195,000"

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17. Page 5, line 1.

Strike: "\$10,000"

Insert: "\$6,500"

18. Page 5, line 6.

Following: "2003."

Insert: "The resulting figure must be rounded up or down to the nearest \$50 increment."

And, as amended, do pass. Report adopted.

SB 431, introduced bill, be amended as follows:

1. Page 5, lines 15 and 16.

Strike: subsection (c) in its entirety

And, as amended, do pass. Report adopted.

HB 87, be concurred in. Report adopted.

MOTIONS

SB 373 - Senator Black moved he be allowed to change his vote on **SB 373**, second reading this legislative day, from yea to nay. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and their future plans, and thanked them for attending the Senate this week.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 12:45 p.m. this legislative day. Motion carried.

Senate recessed at 12:05 p.m.

Senate reconvened at 12:49 p.m.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/22/2003

SB 335, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "SECTIONS"

Insert: "SECTION"

2. Title, page 1, line 7.

Strike: "35-18-102 AND"

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3. Page 1, line 11 through page 2, line 5.

Strike: section 1 in its entirety

Renumber: subsequent section

4. Page 2, line 12.

Following: "(2)"

Insert: "(a)"

5. Page 2, line 13.

Strike: "for those areas"

Following: the first "the"

Insert: "telecommunications"

6. Page 2, line 14.

Following: "successor"

Insert: "telecommunications"

7. Page 2.

Following: line 16

Insert: "(b) A cooperative and foreign corporation described in subsection (2)(a) may not charge more than the maximum allowable rate pursuant to the telecommunications formulas provided in the pole attachment rules of the federal communications commission or successor telecommunications formulas."

And, as amended, do pass. Report adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Esp in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 419 - Senator McNutt moved **SB 419** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 36

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, McCarthy, O'Neil, Pease, Schmidt, Squires, Stonington, Toole, Wheat.

Total 14

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 195, House Amendments - Senator Grimes moved House amendments to **SB 195** be concurred in. Motion carried unanimously.

SB 376 - Senator Elliott moved **SB 376** do pass. Motion carried unanimously.

HB 108 - Senator Gebhardt moved **HB 108** be concurred in. Motion carried unanimously.

SB 270 - Senator Harrington moved **SB 270**, second reading copy, be amended as follows :

1. Title, line 5.

Strike: "TO"

2. Title, line 10 through line 12.

Following: "CLARIFYING"

Strike: remainder of line 10 through "INDUSTRY" on line 12

3. Title, line 18.

Strike: "SECTIONS 39-71-120 AND"

Insert: "SECTION"

4. Page 1, line 23 through page 2, line 1.

Strike: section 1 in its entirety

Renumber: subsequent sections

Amendment **adopted** unanimously.

SB 270 - Senator Harrington moved **SB 270**, as amended, do pass. Motion carried as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 26

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 184 - Senator Butcher moved **SB 184** do pass. Motion carried with Senators Harrington and Mangan voting nay.

SB 250 - Senator Kitzenberg moved **SB 250** do pass. Motion carried unanimously.

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SB 253 - Senator Elliott moved **SB 253** do pass. Motion carried unanimously.

SB 287 - Senator Sprague moved consideration of **SB 287** be placed below SB 221 for purpose of amendment. Motion carried unanimously.

SB 304 - Senator Johnson moved **SB 304**, second reading copy, be amended as follows :

1. Page 1, line 17.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

Amendment **adopted** unanimously.

Senator Grimes excused at this time.

SB 304 - Senator Johnson moved **SB 304**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 43

Nays: Anderson, Barkus, DePratu, Gebhardt, Mangan, McGee.

Total 6

Absent or not voting: None.

Total 0

Excused: Grimes.

Total 1

Senator Grimes present at this time.

SB 307 - Senator D. Ryan moved **SB 307** do pass. Motion carried unanimously.

SB 331 - Senator Squires moved **SB 331** do pass. Motion carried unanimously.

SB 339 - Senator Taylor moved **SB 339**, second reading copy, be amended as follows :

1. Page 2, line 5.

Strike: "\$1"

Insert: "\$2.5"

2. Page 2, line 6.

Strike: "\$150,000"

Insert: "\$300,000"

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3. Page 2, line 7.
Strike: "\$50,000"
Insert: "\$100,000"

4. Page 2, line 8.
Strike: "\$15,000"
Insert: "\$30,000"

5. Page 2, line 9.
Strike: "\$7,500"
Insert: "\$15,000"

6. Page 2, line 10.
Strike: "\$20,000"
Insert: "\$40,000"

Senator Pease excused at this time.

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Elliott, Esp, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Stapleton, Story, Tash, Taylor, Thomas, Toole, Zook, Mr. President.
Total 33

Nays: Cobb, Curtiss, Ellingson, Gebhardt, Harrington, Laible, Mangan, Nelson, Ryan, Schmidt, Sprague, Squires, Stonington, Tester, Tropila, Wheat.
Total 16

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator Pease present at this time.

SB 339 - Senator Cooney moved **SB 339**, as amended, do pass. Motion carried as follows:

Yeas: Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Schmidt, Shea, Squires, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 32

Nays: Anderson, Bales, Barkus, Cobb, Curtiss, Esp, Gebhardt, Glaser, Laible, McGee, McNutt, O'Neil, Perry, Ryan, Sprague, Stapleton, Story, Tash.
Total 18

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Harrington excused at this time.

SB 380 - Senator Bales moved **SB 380** do pass. Motion carried with Senators Barkus and DePratu voting nay.

SB 414 - Senator Pease moved **SB 414** do pass. Motion carried unanimously.

HB 299 - Senator Bales moved consideration of **HB 299** be passed for the day. Motion carried unanimously.

Senator Cobb excused at this time.

SB 115 - Senator Mahlum moved **SB 115** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 43

Nays: Butcher, Johnson, Mangan, O'Neil, Story.
Total 5

Absent or not voting: None.
Total 0

Excused: Cobb, Harrington.
Total 2

SB 221 - Senator Kitzenberg moved **SB 221** do pass. Motion carried unanimously.

SB 287 - Senator Sprague moved **SB 287**, second reading copy, be amended as follows :

1. Page 1, line 17.

Following: "not"

Insert: "launch, retrieve, or"

2. Page 1, line 17 through line 18.

Strike: "on" on line 17 through "waters" on line 18

Insert: "at a public access site"

3. Page 2, line 12.

Strike: "OR"

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4. Page 2, line 14.

Following: "state"

Insert: "; or

(f) a vessel launched or retrieved from private property or a private facility"

Amendment **adopted** unanimously.

SB 287 - Senator Sprague moved **SB 287**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Hansen, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.

Total 41

Nays: Curtiss, Glaser, Grimes, Mahlum, McGee, O'Neil, Roush, Thomas.

Total 8

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

Senator Pease excused at this time.

SB 293 - Senator Wheat moved **SB 293** do pass. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Johnson, Mangan, McCarthy, Nelson, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: Harrington, Pease.

Total 2

SB 293 - Senator Thomas moved **SB 293** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Shea, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Johnson, Mangan, McCarthy, Nelson,

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Ryan, Schmidt, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 21

Absent or not voting: None.
Total 0

Excused: Harrington, Pease.
Total 2

Senator Pease present at this time.

SB 315 - Senator Schmidt moved **SB 315** do pass. Motion carried unanimously.

Senator Elliott excused at this time.

SB 336 - Senator Mahlum moved **SB 336** do pass. Motion carried as follows:

Yeas: Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Hansen, Kitzenberg, Laible, Mahlum, McCarthy, Nelson, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Tester, Toole, Tropila, Wheat, Mr. President.
Total 28

Nays: Anderson, Bales, Butcher, Cobb, Curtiss, Esp, Gebhardt, Glaser, Grimes, Johnson, Mangan, McGee, McNutt, O'Neil, Roush, Stapleton, Story, Taylor, Thomas, Zook.
Total 20

Absent or not voting: None.
Total 0

Excused: Elliott, Harrington.
Total 2

Senator Elliott present at this time.
Senator Schmidt excused at this time.

SB 363 - Senator McNutt moved **SB 363** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 35

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, McCarthy, O'Neil, Shea, Squires, Stonington, Tester, Toole, Wheat.
Total 13

Absent or not voting: None.
Total 0

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Excused: Harrington, Schmidt.
Total 2

Senators Wheat and Tropila excused at this time.

SB 399 - Senator Bohlinger moved **SB 399** do pass. Motion carried unanimously.

SB 413 - Senator Kitzenberg moved **SB 413** do pass. Motion carried unanimously.

SB 438 - Senator DePratu moved **SB 438** do pass. Motion carried unanimously.

SJR 17 - Senator Tester moved **SJR 17** be adopted. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Esp moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

2/22/2003

SB 303, introduced bill, be amended as follows:

1. Title, line 4 through line 7.

Strike: "PROVIDING" on line 4 through "ADMINISTRATION;" on line 7

2. Title, line 15.

Following: "20-9-104,"

Insert: "20-9-161, 20-9-162,"

3. Page 1, line 20 through page 2, line 5.

Strike: section 1 in its entirety

Renumber: subsequent sections

4. Page 2, line 10.

Strike: "2004"

Insert: "2003"

Strike: "103.33%"

Insert: "102%"

5. Page 2, line 11.

Strike: "2005"

Insert: "2004"

Strike: "101.05%"

Insert: "101%"

6. Page 2, line 12.

Strike: "(a)"

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7. Page 2, line 14.

Strike: "(i)"

Insert: "(a)"

8. Page 2, line 16.

Strike: "(ii)"

Insert: "(b)"

9. Page 2, line 18 through line 20.

Strike: subsection (b) in its entirety

10. Page 3, line 7.

Strike: "and"

Insert: "or"

11. Page 3.

Following: line 18

Insert: "**Section 3.** Section 20-9-161, MCA, is amended to read:

"20-9-161. Definition of budget amendment for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district that is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the current school fiscal year whenever, because of the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use;

(3) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district;

(5) the receipt of:

(a) a settlement of taxes protested in a prior school fiscal year;

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents;

(c) delinquent taxes from a prior school fiscal year; and

(d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of the district;

(6) expenditures from the reserve account established in 20-9-104(4); or

~~(6)~~(7) any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting the safety of the students and district employees or the educational functions of the district."

Insert: "**Section 4.** Section 20-9-162, MCA, is amended to read:

"20-9-162. Authorization for budget amendment adoption. (1) (a) Notwithstanding the provisions of subsections (2) and (3), a budget amendment may be adopted at any time of the school fiscal year, except that a budget amendment required by an enrollment increase as provided in 20-9-161(1) may not be adopted until after October 1.

(b) The trustees may approve a budget amendment pursuant to 20-9-161(2) through ~~(6)~~ (7) by a resolution.

(c) Whenever the trustees of a district decide that a budget amendment is necessary, they may proclaim the need for the budget amendment by a majority vote of the trustees. The proclamation must state the facts constituting the need for the budget amendment, the funds affected by the budget amendment, the anticipated source of financing, the estimated amount of money required to finance the budget amendment, and the time and place the trustees will meet for the purpose

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of considering and adopting the budget amendment for the current school fiscal year.

(2) The trustees shall send a copy of the proclamation to the county superintendent and to the board of county commissioners of the county.

(3) The trustees shall submit a budget amendment for an enrollment increase to the superintendent of public instruction for approval in the manner provided in 20-9-163."

Renumber: subsequent sections

12. Page 4, line 10.

Strike: "[section 2]"

Insert: "[section 1]"

13. Page 5, line 4.

Strike: "[section 2]"

Insert: "[section 1]"

14. Page 7, line 27.

Strike: "district"

Insert: "budget unit"

15. Page 9, line 21 through page 12, line 8.

Strike: section 7 through section 10 in their entirety

Renumber: subsequent sections

16. Page 12, line 10 through line 13.

Strike: "(1)" on line 10 through "[Section 2]" on line 13

Insert: "[Section 1]"

17. Page 12, line 14.

Strike: "[section 2]"

Insert: "[section 1]"

And, as amended, do pass. Report adopted.

SB 424, introduced bill, be amended as follows:

1. Title, line 8.

Strike: "CERTAIN SCHOOL DISTRICT FUNDS"

Insert: "ANY BUDGETED FUND OF THE DISTRICT"

2. Page 7, line 23 through line 24.

Strike: "for" on line 23 through "funds" on line 24

3. Page 7, line 28.

Following: "any"

Strike: "district"

Insert: "budgeted"

4. Page 7, line 28 through line 29.

Following: "district fund" on line 28

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Strike: "that" on line 28 through "fund" on line 29

Insert: "of the district"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):
SB 366, introduced bill, be amended as follows:

2/22/2003

1. Page 2, line 18.

Following: "provide"

Insert: "sufficient measures"

2. Page 2, line 20 through page 3, line 1.

Strike: "(i)" on page 2, line 20 through "section" on page 3, line 1

Insert: "(i) of stability structurally competent to withstand geologic and climatic conditions without significant failure that would be a threat to public safety and the environment;

(ii) that affords some utility to humans or the environment; (iii) that mitigates postreclamation visual contrasts between reclamation lands and adjacent lands; and

(iv) that mitigates or prevents undesirable offsite environmental impacts.

(c) The use of backfilling as a reclamation measure is neither required nor prohibited in all cases. A department decision to require any backfill measure must be based on whether and to what extent the backfilling is appropriate under the site- specific circumstances and conditions in order to achieve the standards described in subsection (9)(b)"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):
SB 239, introduced bill, be amended as follows:

2/22/2003

1. Title, page 1, line 4.

Following: "EMPLOYER"

Insert: "OR RETIREE"

2. Title, page 1, line 6.

Strike: "IMMEDIATE"

3. Page 1, line 10.

Strike: "A"

Insert: "Upon termination of employment between July 1, 2003, and October 1, 2003, a"

4. Page 1, line 11.

Following: "retirement"

Strike: ", terminates employment"

Insert: "by having reached normal retirement age, as defined in 19-2-303"

Following: "and"

Insert: "who"

5. Page 1, line 13.

Following: "2-18-703"

Insert: "or payment of the retiree-only premium, whichever is less,"

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Following: "service"

Insert: "or until the employee is eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, et seq., or meets other provisions of 2-18-704(1)(a)"

6. Page 1, line 14.

"NEW SECTION. Section 2. Legislative intent. The legislature intends that the retirement incentive provided under [section 1] be offset by vacancy savings within each agency of state government, as defined in 2-18-101, and the Montana university system, and that a position that becomes vacant under the retirement incentive must be filled at the entry-level salary for that position, pursuant to 2-18-303(1)(b), unless the position is filled by a person who transfers laterally at the same grade and longevity level.

Renumber: subsequent sections

7. Page 1, line 14.

"NEW SECTION. Section 3. Contingent voidness. If [this act] and House Bill No. 2 are both passed and approved and if the appropriations contained in House Bill No. 2 are not accompanied by a narrative stating that appropriated amounts for personal services reflect reductions totaling at least the cost of the incentive projected for [this act], then [this act] is void.

Renumber: subsequent sections

8. Page 1, line 18.

Following: "effective"

Strike: "on passage and approval"

Insert: "July 1, 2003"

And, as amended, do pass. Report adopted.

MOTIONS

HB 299 - Senator Bales moved **HB 299** be taken from the second reading board and rereferred to the committee on Judiciary.

SB 184 - Senator Ryan moved he be allowed to change his vote on **SB 184**, second reading this day, from nay to aye. Motion carried.

SB 419 - Senator Ryan moved he be allowed to change his vote on **SB 419**, second reading this day, from nay to aye. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, February 24, 2003. Motion carried.

Senate adjourned at 5:12 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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58TH LEGISLATURE
FORTY-FIRST LEGISLATIVE DAY**

Helena, Montana
February 24, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Senator McGee. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Harrington, excused. Quorum present.

The presiding officer has authenticated the daily journal for the fortieth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 458, SB 459, SB 460, SB 461, SJR 25, SJR 27.**

Correctly engrossed: **SB 192, SB 194, SB 322, SB 335, SB 347, SB 348, SB 405, SB 410, SB 417, SB 423, SB 431, SJR 7, SJR 22.**

Signed by the Speaker at 3:15 p.m., February 21, 2003: **SB 136.**

Signed by the President at 2:35 p.m., February 21, 2003: **SB 136.**

Signed by the Secretary of the Senate at 2:40 p.m., February 21, 2003: **SB 136.**

Delivered to the Governor for approval at 9:30 a.m., February 24, 2003: **SB 136.**

BUSINESS AND LABOR (Mahlum, Chairman):

2/24/2003

SB 360, do pass. Report adopted.

SB 390, do pass. Report adopted.

SB 432, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

2/24/2003

SB 323, introduced bill, be amended as follows:

1. Title, line 4.

Following: "LAWS;"

Insert: "PROVIDING FOR ANNUAL INFLATION-RELATED ADJUSTMENTS TO THE BASE FUNDING PROGRAM AMOUNTS FOR SCHOOL DISTRICT BASIC ENTITLEMENTS AND PER-ANB ENTITLEMENTS;"

2. Title, line 6.

Strike: "SPECIAL EDUCATION"

3. Title, line 8 through line 10.

Strike: "REQUIRING" on line 8 through "APPROPRIATION;" on line 10

4. Title, line 11.

Following: "20-9-306"

Strike: ", "

Insert: "AND"

Strike: "AND 20-9-703,"

5. Page 1.

Following: line 15

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Insert: "NEW SECTION. **Section 1. Annual inflation-related adjustments to basic entitlement and per-ANB entitlements.** (1) Beginning in 2004, the superintendent of public instruction shall by October 1 of each even-numbered year calculate the inflation factors for the ensuing biennium as follows:

(a) for the first fiscal year of the ensuing biennium, divide the consumer price index for July of the prior calendar year by the consumer price index for July of the year prior to the prior calendar year; and

(b) for the second fiscal year of the ensuing biennium, divide the consumer price index for July of the current calendar year by the consumer price index for July of the prior calendar year.

(2) For the purposes of this section, "consumer price index" means the consumer price index, U.S. city average, all urban consumers, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor."

Renumber: subsequent sections

6. Page 5, line 13.

Strike: "special education"

7. Page 5, line 26.

Strike: "and benefits are"

Insert: "is"

Strike: "the district's general fund"

Insert: "state or local funding sources"

Following: ";

Strike: "and"

8. Page 5, line 27.

Strike: "and benefits are"

Insert: "is"

9. Page 5, line 28.

Following: "fund"

Insert: "if the fund is supported solely from districts' general funds and state special education allowable cost payments pursuant to 20-9-321; and

(iii) a district employee whose salary is paid from the district's school food services fund provided for in 20-10-204"

10. Page 5, line 29.

Strike: "salary and"

Strike: "general"

Insert: "retirement"

11. Page 5, line 29 through line 30.

Strike: "or" on line 29 through "fund" on line 30

12. Page 6, line 1.

Strike: "fund"

Insert: "funding source"

13. Page 6, line 1 through line 2.

Following: "salary" on line 1

Strike: "and" on line 1 through "benefits" on line 2

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14. Page 7, line 25 through page 8, line 13.

Strike: section 4 in its entirety

Renumber: subsequent sections

15. Page 10.

Following: line 21

Insert: "NEW SECTION. **Section 6. Personnel rights preserved.** A school district or a cooperative may continue to pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for an employee whose salary is wholly or partially paid from a federal funding source on [the effective date of this section] until the employee is no longer paid from a federal funding source."

Renumber: subsequent sections

16. Page 10, line 23.

Following: "[Section"

Strike: "1"

Insert: "2"

17. Page 10, line 25.

Following: "[Section"

Strike: "2"

Insert: "3"

18. Page 10, line 27.

Following: "Sections"

Strike: "3 through 5 and 7"

Insert: "1, 4 through 6, and 8"

19. Page 10, line 29.

Following: "[Section"

Strike: "1"

Insert: "2"

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

2/24/2003

SB 37, introduced bill, be amended as follows:

1. Title, line 6 through line 12.

Following: "CONCENTRATION;" on line 6

Strike: remainder of line 6 through "AND" on line 12

Insert: "INCREASING LICENSE REINSTATEMENT FEES; EXTENDING DRIVER'S LICENSE SUSPENSION AND REVOCATION PERIODS; REQUIRING IGNITION INTERLOCK DEVICES IN CERTAIN CASES; ALLOWING REMOVAL OF A CONVICTION FROM A DRIVING RECORD IF AN ARRESTED PERSON AGREED TO AN ALCOHOL TEST AND HAS NO OTHER CONVICTION WITHIN 5 YEARS; INCREASING PENALTIES FOR REFUSAL TO TAKE ALCOHOL CONCENTRATION TESTS; INCREASING FINES AND JAIL TIMES; ALLOWING A COURT TO IMPOSE COMMUNITY SERVICE AS PART OF A DRIVER'S LICENSE SUSPENSION PENALTY; REVISING LAWS ALLOWING USE OF HOME ARREST AND ELECTRONIC MONITORING ON FIRST THROUGH THIRD OFFENSES IN LIEU OF JAIL TIME; REQUIRING THE DEPARTMENT OF REVENUE TO KEEP A LIST OF PERSONS

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CONVICTED OF FELONY DUI OR PER SE OFFENSES AND AUTHORIZING SELLERS OF ALCOHOL TO REFUSE TO SELL ALCOHOL TO PERSONS ON THE LIST;"

2. Title, line 13.

Following: "SECTIONS"

Insert: "61-1-103, 61-2-107, 61-2-302, 61-5-208, 61-8-401, 61-8-402, 61-8-406, 61-8-409, 61-8-440,"

Following: "61-8-731,"

Insert: "AND"

Following: "61-8-734,"

Strike: "AND 61-11-105,"

Following: "MCA"

Insert: "; REPEALING SECTION 61-8-442, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE"

3. Page 1, line 17 through page 7, line 6.

Strike: everything after the enacting clause

Insert: "**Section 1.** Section 61-1-103, MCA, is amended to read:

"61-1-103. Vehicle. (1) Except as provided in subsection (2), "vehicle" means every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails or tracks.

(2) (a) In chapters 3 and 4, vehicle means "motor vehicle" as defined in this part.

(b) (i) In chapter 8, part 4, vehicle does not include a bicycle as defined in 61-1-123.

(ii) In chapter 8, part 4, except 61-8-440 ~~through 61-8-442~~ and 61-8-441, vehicle includes a snowmobile."

Insert: "**Section 2.** Section 61-2-107, MCA, is amended to read:

"61-2-107. License reinstatement fee to fund county drinking and driving prevention programs. (1) (a) Notwithstanding the provisions of any other law of the state, a driver's license that has been suspended or revoked under 61-5-205 or 61-8-402 must remain suspended or revoked until the driver has paid to the department a fee of \$100, except as provided in subsection (1)(b), in addition to any other fines, forfeitures, and penalties assessed as a result of conviction for a violation of the traffic laws of the state.

(b) If a person's driver's license was suspended under 61-5-208(3) for a conviction for the offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for the offense of operating a motor vehicle with an alcohol concentration of 0.10 or more, the following reinstatement fees must be paid:

(i) \$300 upon a second conviction;

(ii) \$500 upon a third or subsequent conviction or a felony conviction.

(2) The department shall deposit the fees collected under subsection (1) in the general fund. One-half of the fees must be appropriated and used for funding county drinking and driving prevention programs as provided in 61-2-108."

Insert: "**Section 3.** Section 61-2-302, MCA, is amended to read:

"61-2-302. Establishment of driver rehabilitation and improvement program -- department to contract with private entities -- participation by offending drivers. (1) (a) The department shall establish by administrative rules a driver rehabilitation and improvement program or programs that may consist of classroom instruction in rules of the road, driving techniques, defensive driving, driver attitudes and habits, actual on-the-road driver's training, and other subjects or tasks designed to contribute to proper driving attitudes, habits, and techniques.

(b) The rules must:

(i) provide for the local program courses to be operated by private entities;

(ii) develop a procedure for certifying private entities as driver rehabilitation and improvement course providers;

(iii) establish the criteria that private entities must meet in order to be certified by the department; and

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(iv) provide for an alternative driver rehabilitation and improvement procedure for drivers who live in areas where a course is not offered.

(2) ~~Official participation in the driver rehabilitation and improvement program is limited to those persons whose license to operate a motor vehicle in the state of Montana. Except when otherwise provided or restricted by statute, a person whose driver's license is suspended or revoked by the department may participate in any driver rehabilitation and improvement program established under this section if the person's license is:~~

(a) ~~(i) subject to suspension or revocation~~ suspended as a result of a violation of the traffic laws of this state; or;

(ii) unless otherwise provided by the sentencing court, is suspended under 45-5-624(2)(b); or

(b) ~~revoked and they have the person has:~~

~~(i) completed at least 3 months of a 1-year revocation or, if revocation is for a second or subsequent violation of 61-8-401 or 61-8-406, have provided the department with proof of compliance with the ignition interlock device restriction imposed under 61-5-208; or~~

~~(ii) completed 1 year of a 3-year revocation; and~~

~~(iii) met the requirements for reobtaining a Montana driver's license; or~~

(c) subject to suspension as provided in 61-11-204(3).

(3) Notwithstanding any provision of this part inconsistent with any other law of the state of Montana, the enforcement of any suspension or revocation order that constitutes the basis for any person's participation in the driver rehabilitation and improvement program provided for in this section may be stayed if that person complies with the requirements established for the driver rehabilitation and improvement program and meets the eligibility requirements of subsection (2).

(4) In the event that a person's driver's license has been surrendered before the person's selection for participation in the driver rehabilitation and improvement program, the license may be returned upon receipt of the person's agreement to participate in the program.

(5) The stay of enforcement of any suspension or revocation order must be terminated and the order of suspension or revocation enforced if a person declines to participate in the driver rehabilitation and improvement program or fails to meet the attendance or other requirements established for participation in the program.

(6) This part does not create a right to be included in any program established under this part.

(7) The department and the entity with which the department contracts under subsection (1)(b) shall establish separate fee schedules that may be charged to those persons participating in the driver improvement and rehabilitation program. The fees must be collected separately by the department and by the entity with which the department contracts under subsection (1)(b).

(8) The fees collected by the department under subsection (7) must be used to help defray costs incurred by the department in administering the program and in contracting with private entities as provided in subsection (1). The department may not use the fees collected under subsection (7) for any other purpose.

(9) A person may be referred to this program by a driver improvement analyst, city judge, justice of the peace, youth court judge, judge of a district court of the state, or hearing examiner of the department.

(10) (a) Except as provided in (10)(b), the department may issue a restricted probationary license to any person who enrolls and participates in the driver rehabilitation and improvement program. Upon issuance of a probationary license under this section, the licensee is subject to the restrictions set forth on the license.

(b) The department may not issue a restricted probationary license that would permit an individual to drive a commercial motor vehicle during a period in which:

(i) the individual is disqualified from operating a commercial motor vehicle under state or federal law; or

(ii) the individual's driver's license or driving privilege is revoked, suspended, or canceled.

(11) It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license issued to the person under this section."

Insert: "Section 4. Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation -- probationary license -- ignition interlock device

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required on second or subsequent offense. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than 1 year, except as otherwise permitted by law.

(2) ~~(a)~~ Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

~~(b)(3)~~ ~~When~~ If the department receives a report from a court or another licensing jurisdiction that a person is has been convicted or forfeits has forfeited bail or collateral not vacated for the offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for the offense of operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated;

(a) upon a first conviction, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall revoke the license or driving privilege of the person for a period of 1 year and, upon Upon issuance of any restricted probationary license during the period of ~~revocation~~ suspension, the department shall restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device;

(i) if the report shows that the person's alcohol concentration at the time of arrest was 0.16 or greater; or

(ii) if ordered by the court when the person's alcohol concentration at the time of arrest was less than 0.16.

(b) upon a second or third conviction for an offense within 5 years of the first offense, revoke the license or driving privilege of the person for a period of 1 year and, upon reinstatement of the person's driving privileges, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the 12-month period beginning with the end of the period of the driver's license revocation. A restricted probationary license may not be issued during the 1-year period of revocation.

(c) upon a fourth or subsequent conviction constituting a felony under 61-8-731, revoke the license or driving privilege of the person for a period of 5 years. A restricted probationary license may not be issued during the first 2 years of the revocation period. If the person's probation officer agrees, the person's driving privileges may be reinstated for the last 3 years of the revocation period, and the person must be restricted to driving only a motor vehicle equipped with a functioning ignition interlock device during the remainder of the revocation period.

(4) If the 1-year period of revocation under subsection (3)(b) or (3)(c) passes and the person has not completed a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license revocation remains in effect until the course, treatment, or both, are completed.

~~(c)(5)~~ For the purposes of subsection ~~(2)(b)~~ (3), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

~~(3) (a) If a person pays the reinstatement fee required in 61-2-107 and provides the department proof of compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension of a person who has been convicted of a violation of 61-8-401 or 61-8-406 and return the person's driver's license. The stay must remain in effect until the period of suspension has expired and any required chemical dependency education course, treatment, or both, have been completed.~~

~~(b)(6)~~ ~~If~~ When an ignition interlock restriction is imposed under subsection ~~(3)~~ and the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the ~~court-imposed~~ ignition interlock restriction by, ~~including but not limited to~~ such acts as operating a motor vehicle not equipped with the device, tampering with the device, or removing the device before the period of restriction has expired, the department shall ~~lift the stay and reinstate the license suspension~~ suspend the person's license or driving privilege for the remainder of the time restriction period. The department may not issue a restricted probationary ~~driver's~~ license to a person whose license suspension has been ~~reinstated~~ suspended because of violation of an ignition interlock restriction.

~~(4)(7)~~ The period for all revocations made mandatory by 61-5-205 is 1 year except as provided in subsection ~~(2)~~ (3).

~~(5)(8)~~ The period of revocation for a person convicted of any offense that makes mandatory the revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

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~~(6)~~(9) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802.""

Insert: "Section 5. Section 61-8-401, MCA, is amended to read:

"61-8-401. Driving under influence of alcohol or drugs. (1) It is unlawful and punishable, as provided in ~~61-8-442~~, 61-8-714; and 61-8-731 through 61-8-734, for a person who is under the influence of:

- (a) alcohol to drive or be in actual physical control of a vehicle upon the ways of this state open to the public;
- (b) a dangerous drug to drive or be in actual physical control of a vehicle within this state;
- (c) any other drug to drive or be in actual physical control of a vehicle within this state; or
- (d) alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within this

state.

(2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use alcohol or a drug under the laws of this state does not constitute a defense against any charge of violating subsection (1).

(3) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished.

(4) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person's blood or breath drawn or taken within a reasonable time after the alleged act, gives rise to the following inferences:

(a) If there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person was not under the influence of alcohol.

(b) If there was at that time an alcohol concentration in excess of 0.04 but less than 0.10, that fact may not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be considered with other competent evidence in determining the guilt or innocence of the person.

(c) If there was at that time an alcohol concentration of 0.10 or more, it may be inferred that the person was under the influence of alcohol. The inference is rebuttable.

(5) The provisions of subsection (4) do not limit the introduction of any other competent evidence bearing upon the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

(6) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-410, 61-8-714, 61-8-722, 61-8-731 through 61-8-734, and subsections (1) through (5) of this section, with the word "state" in 61-8-406 and subsection (1) of this section changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and of the imposition of the fines and penalties provided in the ordinance.

(7) Absolute liability as provided in 45-2-104 will be imposed for a violation of this section.""

Insert: "Section 6. Section 61-8-402, MCA, is amended to read:

"61-8-402. Blood or breath tests for alcohol, drugs, or both. (1) A person who operates or is in actual physical control of a vehicle upon ways of this state open to the public is considered to have given consent to a test or tests of the person's blood or breath for the purpose of determining any measured amount or detected presence of alcohol or drugs in the person's body.

(2) (a) The test or tests must be administered at the direction of a peace officer when:

(i) the officer has reasonable grounds to believe that the person has been driving or has been in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol, drugs, or a combination of the two and the person has been placed under arrest for a violation of 61-8-401;

(ii) the person is under the age of 21 and has been placed under arrest for a violation of 61-8-410; or

(iii) the officer has probable cause to believe that the person was driving or in actual physical control of a vehicle in violation of 61-8-401 and the person has been involved in a motor vehicle accident or collision resulting in property damage, bodily injury, or death.

(b) The arresting or investigating officer may designate which test or tests are administered.

(3) If an arrested person agrees to submit to one or more tests requested and designated by the peace officer and

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is subsequently convicted of a violation of 61-8-401 or 61-8-406 arising out of the same incident, the conviction under 61-8-401 or 61-8-406 must be removed from the person's driving record after 5 years from the date of conviction or forfeiture of bail if the person has not been convicted of any other violation of 61-8-401 or 61-8-406, either within 5 years prior to the incident or 5 years subsequent to the incident.

~~(3)~~(4) A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is considered not to have withdrawn the consent provided by subsection (1).

~~(4)~~(5) If an arrested person refuses to submit to one or more tests requested and designated by the officer as provided in subsection (2), the refused test or tests may not be given, but the officer shall, on behalf of the department, immediately seize the person's driver's license. The peace officer shall immediately forward the license to the department, along with a report certified under penalty of law stating which of the conditions set forth in subsection (2)(a) provides the basis for the testing request and confirming that the person refused to submit to one or more tests requested and designated by the peace officer. Upon receipt of the report, the department shall suspend the license for the period provided in subsection ~~(6)~~ (7).

~~(5)~~(6) Upon seizure of a driver's license, the peace officer shall issue, on behalf of the department, a temporary driving permit, which is effective 12 hours after issuance and is valid for 5 days following the date of issuance, and shall provide the driver with written notice of the license suspension or revocation and the right to a hearing provided in 61-8-403.

~~(6)~~(7) The following suspension and revocation periods are applicable upon refusal to submit to one or more tests:

(a) upon a first refusal, a suspension of ~~6 months~~ 1 year with no provision for a restricted probationary license and, upon reinstatement of a license or driving privilege, restriction of the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the 12-month period beginning with the end of the period of the driver's license revocation;

(b) upon a second or subsequent refusal within 5 years of a previous refusal, as determined from the records of the department, a revocation of ~~1 year~~ 2 years with no provision for a restricted probationary license and, upon reinstatement of a license or driving privilege, restriction of the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the 12-month period beginning with the end of the period of the driver's license revocation.

~~(7)~~(8) A nonresident driver's license seized under this section must be sent by the department to the licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or more tests.

~~(8)~~(9) The department may recognize the seizure of a license of a tribal member by a peace officer acting under the authority of a tribal government or an order issued by a tribal court suspending, revoking, or reinstating a license or adjudicating a license seizure if the actions are conducted pursuant to tribal law or regulation requiring alcohol or drug testing of motor vehicle operators and the conduct giving rise to the actions occurred within the exterior boundaries of a federally recognized Indian reservation in this state. Action by the department under this subsection is not reviewable under 61-8-403.

~~(9)~~(10) A suspension under this section is subject to review as provided in this part.

~~(10)~~(11) This section does not apply to blood and breath tests, samples, and analyses used for purposes of medical treatment or care of an injured motorist or related to a lawful seizure for a suspected violation of an offense not in this part.""

Insert: "Section 7. Section 61-8-406, MCA, is amended to read:

"61-8-406. Operation of noncommercial vehicle by person with alcohol concentration of 0.10 or more -- operation of commercial vehicle by person with alcohol concentration of 0.04 or more. (1) It is unlawful and punishable as provided in ~~61-8-442~~, 61-8-722, 61-8-723, and 61-8-731 through 61-8-734 for any person to drive or be in actual physical control of:

(a) a noncommercial vehicle upon the ways of this state open to the public while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or urine, is 0.10 or more; or

(b) a commercial motor vehicle upon the ways of this state open to the public while the person's alcohol

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concentration, as shown by analysis of the person's blood or breath, is 0.04 or more.

(2) Absolute liability, as provided in 45-2-104, will be imposed for a violation of this section.""

Insert: "Section 8. Section 61-8-409, MCA, is amended to read:

"61-8-409. Preliminary alcohol screening test. (1) A person who operates or is in actual physical control of a vehicle upon ways of this state open to the public is considered to have given consent to a preliminary alcohol screening test of the person's breath, for the purpose of estimating the person's alcohol concentration, upon the request of a peace officer who has a particularized suspicion that the person was driving or in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol or in violation of 61-8-410.

(2) The person's obligation to submit to a test under 61-8-402 is not satisfied by the person submitting to a preliminary alcohol screening test pursuant to this section.

(3) The peace officer shall inform the person of the right to refuse the test and that the refusal to submit to the preliminary alcohol screening test will result in the suspension or revocation for up to 1 year of that person's driver's license.

(4) If the person refuses to submit to a test under this section, a test will not be given. However, the refusal is sufficient cause to suspend or revoke the person's driver's license as provided in 61-8-402.

(5) A hearing as provided for in 61-8-403 must be available. The issues in the hearing must be limited to determining whether a peace officer had a particularized suspicion that the person was driving or in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol or in violation of 61-8-410 and whether the person refused to submit to the test.

(6) The provisions of ~~61-8-402(3) through (8)~~ 61-8-402(4) through (9) that do not conflict with this section are applicable to refusals under this section. If a person refuses a test requested under 61-8-402 and this section for the same incident, the department may not consider each a separate refusal for purposes of suspension or revocation under 61-8-402.

(7) A test may not be conducted or requested under this section unless both the peace officer and the instrument used to conduct the preliminary alcohol screening test have been certified by the department pursuant to rules adopted under the authority of 61-8-405(5).""

Insert: "Section 9. Section 61-8-440, MCA, is amended to read:

"61-8-440. Ignition interlock device -- assisting in starting and operating -- circumventing -- penalty.

(1) It is unlawful for a person who is subject to a restriction under ~~61-8-442~~ 61-8-714 or 61-8-722 to operate a motor vehicle not equipped with an ignition interlock device.

(2) A person may not knowingly assist a person who is restricted to the use of an ignition interlock device to start and operate the restricted person's vehicle.

(3) A person may not knowingly circumvent the operation of an ignition interlock device.

(4) A person convicted of a violation of this section shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both.

(5) This section does not apply if:

(a) the starting of a motor vehicle or the request to start a motor vehicle equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle; and

(b) the person subject to the restriction does not operate the vehicle.""

Insert: "Section 10. Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving under influence of alcohol or drugs -- first through third offense. (1) A person convicted of a violation of 61-8-401 shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and shall be punished by a fine of not less than ~~\$100~~ \$300 or more than ~~\$500~~ \$1,000. The initial 24 hours of the imprisonment term must be served in the county jail and may not be served under home arrest. The mandatory imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 24 hours of the

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imprisonment term, notwithstanding 46-18-201(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the defendant.

(2) On a second conviction, the person shall be punished by a fine of not less than ~~\$300~~ \$600 or more than ~~\$500~~ \$2,500 and by imprisonment for not less than 7 days or more than ~~6~~ 9 months. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. ~~Three~~ Seven days of the imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial ~~3~~ 7 days of the imprisonment term, notwithstanding 46-18-201(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the defendant.

(3) On the third conviction, the person shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than ~~\$500~~ \$1,000 or more than ~~\$1,000~~ \$5,000. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended. The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the defendant.

(4) In addition to the penalties provided in subsections (1) through (3), the court:

(a) may, upon a first conviction if the person's alcohol concentration at the time of the arrest was less than 0.16, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing, installing, and maintaining the device on each vehicle owned or operated by the person. A restriction imposed under this subsection (4)(a) must run concurrent to the period of suspension of the driver's license under 61-5-208(3)(a) and must be included in a report of the conviction made by the court to the department in accordance with 61-11-102.

(b) shall, upon a first conviction if the person's alcohol concentration at the time of the arrest was 0.16 or greater or upon a second or third conviction regardless of the person's alcohol concentration at the time of the arrest, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing, installing, and maintaining the device on each vehicle owned or operated by the person. A restriction imposed under this subsection (4)(b) must be included in a report of the conviction made by the court to the department in accordance with 61-11-102 and:

(i) upon a first conviction, run concurrent to the period of suspension of the person's driver's license under 61-5-208(3)(a); or

(ii) upon a second or third conviction, apply to the 12-month period beginning with the end of the period of revocation of the person's driver's license under 61-5-208(3)(b).

(5) The court may make the performance of community service of the type and in the number of hours or days determined by the court a condition of any sentence suspension under this section."

Insert: "Section 11. Section 61-8-722, MCA, is amended to read:

"61-8-722. Penalty for driving with excessive alcohol concentration -- first through third offense. (1)

A person convicted of a violation of 61-8-406 shall be punished by imprisonment for not more than 10 days and shall be punished by a fine of not less than ~~\$100~~ \$300 or more than ~~\$500~~ \$1,000.

(2) On a second conviction of a violation of 61-8-406, the person shall be punished by imprisonment for not less than ~~48 consecutive hours~~ 5 days, to be served in the county jail and not on home arrest, or more than 30 days and by a fine of not less than ~~\$300~~ \$600 or more than ~~\$500~~ \$2,500. The imposition or execution of the first 5 days of the imprisonment sentence may not be suspended.

(3) On a third conviction of a violation of 61-8-406, the person shall be punished by imprisonment for not less than ~~48 consecutive hours~~ 10 days, to be served in the county jail and not on home arrest, or more than 6 months and by a fine of not less than ~~\$500~~ \$1,000 or more than ~~\$1,000~~ \$5,000. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended.

(4) In addition to the penalties provided in subsections (1) through (3), the court:

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(a) may, upon a first conviction if the person's alcohol concentration at the time of the arrest was less than 0.16, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing, installing, and maintaining the device on each vehicle owned or operated by the person. A restriction imposed under this subsection (4)(a) must run concurrent to the period of suspension of the driver's license under 61-5-208(3)(a) and must be included in a report of the conviction made by the court to the department in accordance with 61-11-102.

(b) shall, upon a first conviction if the person's alcohol concentration at the time of the arrest was 0.16 or greater or upon a second or third conviction regardless of the person's alcohol concentration at the time of the arrest, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing, installing, and maintaining the device on each vehicle owned or operated by the person. A restriction imposed under this subsection (4)(b) must be included in a report of the conviction made by the court to the department in accordance with 61-11-102 and:

(i) upon a first conviction, run concurrent to the period of suspension of the person's driver's license under 61-5-208(3)(a); or

(ii) upon a second or third conviction, apply to the 12-month period beginning with the end of the period of revocation of the person's driver's license under 61-5-208(3)(b).

(5) The court may make the performance of community service of the type and in the number of hours or days determined by the court a condition of any sentence suspension under this section."

Insert: "Section 12. Section 61-8-731, MCA, is amended to read:

"61-8-731. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- penalty for fourth or subsequent offense. (1) On the fourth or subsequent conviction under 61-8-714 or 61-8-722 for a violation of 61-8-401 or 61-8-406, the person is guilty of a felony and shall be punished by:

(a) sentencing the person to the department of corrections for placement in an appropriate correctional facility or program for a term of 13 months. The court shall order that if the person successfully completes a residential alcohol treatment program operated or approved by the department of corrections, the remainder of the 13-month sentence must be served on probation. The imposition or execution of the 13-month sentence may not be deferred or suspended, and the person is not eligible for parole.

(b) sentencing the person to either the department of corrections or the Montana state prison or Montana women's prison for a term of not more than 5 years, all of which must be suspended, to run consecutively to the term imposed under subsection (1)(a); and

(c) a fine in an amount of not less than \$1,000 or more than \$10,000.

(2) The department of corrections may place an offender sentenced under subsection (1)(a) in a residential alcohol treatment program operated or approved by the department of corrections or in a state prison.

(3) The court shall, as a condition of probation, order:

(a) that the person abide by the standard conditions of probation promulgated by the department of corrections;

(b) a person who is financially able to pay the costs of imprisonment, probation, and alcohol treatment under this section;

(c) that the person may not frequent an establishment where alcoholic beverages are served;

(d) that the person may not consume alcoholic beverages;

(e) that the person may not operate a motor vehicle unless authorized by the person's probation officer;

(f) that the person enter in and remain in an aftercare treatment program for the entirety of the probationary period;

(g) that the person submit to random or routine drug and alcohol testing; and

(h) that if the person is permitted to operate a motor vehicle, the vehicle be equipped with an ignition interlock system.

(4) The sentencing judge may impose upon the defendant any other reasonable restrictions or conditions during the period of probation. Reasonable restrictions or conditions may include but are not limited to:

(a) payment of a fine as provided in 46-18-231;

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- (b) payment of costs as provided in 46-18-232 and 46-18-233;
 - (c) payment of costs of court-appointed counsel as provided in 46-8-113;
 - (d) community service;
 - (e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of society; or
 - (f) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(e).
- (5) Following initial placement of a defendant in a treatment facility under subsection (2), the department of corrections may, at its discretion, place the offender in another facility or program.
- (6) The provisions of 46-18-203, 46-23-1001 through 46-23-1005, 46-23-1011 through 46-23-1014, and 46-23-1031 apply to persons sentenced under this section.
- (7) The department of corrections shall report to the department of revenue, on a monthly basis, the name of any person sentenced under this section for purposes of maintaining the list required under [section 13]."

Insert: "NEW SECTION. Section 13. Refusal to sell to person with felony DUI. (1) The department shall, as provided in 61-8-731(7), maintain a list, in electronic form, of persons who have received felony convictions of driving under influence of alcohol or drugs or driving with excessive alcohol concentration.

(2) A store manager, retail licensee, or any employee of a store manager or retail licensee may refuse to sell any alcoholic beverage to a person whose name appears on a monthly advisory list available from the department of revenue. No liability arises for failure to check or use the list."

Insert: "Section 14. Section 61-8-734, MCA, is amended to read:

"61-8-734. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- conviction defined -- place of imprisonment -- home arrest -- exceptions -- deferral of sentence not allowed.

(1) (a) For the purpose of determining the number of convictions under 61-8-714 or 61-8-722 for a violation of 61-8-401 or 61-8-406, "conviction" means a final conviction, as defined in 45-2-101, in this state; conviction for a violation of a similar statute or regulation in another state, or a federally recognized Indian reservation; or a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state, another state, or a federally recognized Indian reservation, which forfeiture has not been vacated.

(b) An offender is considered to have been previously convicted for the purposes of sentencing if less than 5 years have elapsed between the commission of the present offense and a previous conviction, unless the offense is the offender's fourth or subsequent offense, in which case all previous convictions must be used for sentencing purposes.

(c) A previous conviction under 61-8-714 or 61-8-722 for violation of 61-8-401 or 61-8-406 may be counted for purposes of determining the number of a subsequent conviction for violation of either 61-8-401 or 61-8-406.

(2) Except as provided in 61-8-731, the court may order that a term of imprisonment imposed under 61-8-714 or 61-8-722 be served in another facility made available by or under contract with the county or other unit of local government and approved by the sentencing court. The defendant, if financially able, shall bear the expense of the imprisonment in the facility. The court may impose restrictions on the defendant's ability to leave the premises of the facility and require that the defendant follow the rules of that facility. The facility may be, but is not required to be, a community-based prerelease center as provided for in 53-1-203. The prerelease center may accept or reject a defendant referred by the sentencing court.

(3) Subject to the limitations set forth in 61-8-714 and 61-8-722 concerning minimum periods of imprisonment, the court may order that a term of imprisonment imposed under either section be served by imprisonment under home arrest, as provided in Title 46, chapter 18, part 10, if an electronic monitoring device is used.

(4) A court may not defer imposition of sentence under 61-8-714, 61-8-722, or 61-8-731.

(5) The provisions of 61-2-107, 61-2-302, 61-5-205(1)(b), and 61-5-208~~(2)~~, relating to suspension and revocation of driver's licenses and later reinstatement of driving privileges, apply to any conviction under 61-8-714 or 61-8-722 for a violation of 61-8-401 or 61-8-406.""

Insert: "NEW SECTION. Section 15. Repealer. Section 61-8-442, MCA, is repealed."

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Insert: "NEW SECTION. Section 16. Codification instruction. [Section 13] is intended to be codified as an integral part of Title 16, chapter 6, part 3, and the provisions of Title 16, chapter 6, part 3, apply to [section 13]."

Insert: "NEW SECTION. Section 17. Coordination instruction. If Senate Bill No. 13 is passed and approved, then 61-2-107(1)(b) in [this act] must read as follows:

"(b) If a person's driver's license was suspended under 61-5-208(3) for a conviction for the offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for the offense of operating a motor vehicle with an alcohol concentration of 0.08 or more, the following reinstatement fees must be paid:

- (i) \$300 upon a second conviction;
- (ii) \$500 upon a third or subsequent conviction or a felony conviction."

Insert: "NEW SECTION. Section 18. Effective date. [This act] is effective June 30, 2003."

Insert: "NEW SECTION. Section 19. Applicability. [This act] applies to persons sentenced for offenses committed on or after [the effective date of this act]."

And, as amended, do pass. Report adopted.

SB 421, introduced bill, be amended as follows:

1. Page 2, line 3.

Strike: "and"

2. Page 2, line 6.

Following: "dependency"

Insert: ";

(e) provide a liaison with local community groups; and

(f) provide for the application, receipt, and administration of grants"

3. Page 2, line 22.

Strike: "work"

Insert: "coordinate"

4. Page 3, line 12.

Strike: "23"

Insert: "20"

5. Page 3, line 20 through line 22.

Following: "treatment" on line 20

Strike: remainder of line 20 through "related to" on line 22

Insert: "and one"

Strike: "services" on line 22

Insert: "professional"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

2/24/2003

SB 350, do pass. Report adopted.

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TAXATION (DePratu, Chairman):

2/21/2003

SB 271, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "LIMITING THE COST OF THE REPLACEMENT SYSTEM;"

2. Title, page 1, line 11.

Strike: "15-2-302, 15-30-204, 15-30-249,"

Strike: ", 39-51-302,"

Insert: "AND"

3. Title, page 1, line 12 through line 13.

Strike: "39-51-1110" on line 12 through "15-30-255," on line 13

Strike: "A DELAYED" on line 13

Insert: "AN IMMEDIATE"

4. Page 1, line 20 through line 21.

Following: "industry"

Strike: ", so" on line 20 through "collections" on line 21

Insert: "by February 1, 2005"

5. Page 1, line 26.

Strike: "administration"

Insert: "labor and industry"

6. Page 1, line 28 through line 30.

Strike: "The department" on line 28 through "(3)." on line 30

7. Page 1.

Following: line 30

Insert: "(3) None of the departments or agencies involved in the POINTS computer system replacement may expend any funds authorized for the replacement system by the 58th legislature after June 30, 2005, without obtaining spending authority from the 59th legislature."

Renumber: subsequent subsection

8. Page 2, line 5 through page 5, line 8.

Strike: sections 2 through 4 in their entirety

Renumber: subsequent sections

9. Page 5, line 22.

Strike: "is responsible for"

Insert: "may delegate to the department of revenue"

10. Page 5, line 25.

Following: "labor."

Insert: "The department of revenue must receive funds from the department for the performance of the delegated duties. The department of revenue has rulemaking authority with respect to any function or duty delegated to the department of revenue pursuant to this section."

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11. Page 5, line 29 through page 6, line 1.

Strike: "The delegation" on page 5, line 29 through "revenue." on page 6, line 1

12. Page 6.

Following: line 1

Insert: "(6) The department may revoke its delegation to the department of revenue at any time."

Renumber: subsequent subsections

13. Page 6, line 8 through line 9.

Strike: "the period" on line 8 through "2004" on line 9

Insert: "1 year from the date of the termination of the delegation of duties in subsection (5)"

14. Page 6, line 17.

Strike: "January" through "2004,"

Insert: "the date of the termination of the delegation of duties in subsection (5)"

15. Page 6, line 18.

Strike: "January" through "2004,"

Insert: "the date of the termination of the delegation of duties in subsection (5)"

16. Page 6, line 22.

Strike: "January" through "2004"

Insert: "the date of the termination of the delegation of duties in subsection (5)"

17. Page 6, line 29.

Strike: "(9)"

Insert: "(10)"

18. Page 7, line 2 through line 6.

Strike: section 6 in its entirety

Renumber: subsequent sections

19. Page 7, line 9.

Following: "(1)"

Insert: "(1)"

20. Page 7, line 19.

Insert: "(2) A decision, determination, or redetermination involving contribution liability, contribution rate, application for refund, subject wages, or other tax-related issues must be issued by the department of revenue as provided in Title 15, chapter 1, part 2, and 15-30-257, if applicable. The decision is final unless an interested party entitled to notification follows the uniform dispute review procedures as prescribed in 15-1-211 and 15-30-257, if applicable."

21. Page 7, line 20 through page 10, line 23.

Strike: sections 8 through 12 in their entirety

Renumber: subsequent sections

22. Page 11, line 2.

Strike: "January 1, 2004"

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Insert: "on passage and approval"

And, as amended, do pass. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

2/24/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 5:00 p.m., Saturday, February 22, 2003:

TITLE

NAME

Pages:

Matt Turnbull, Brockton, MT
Alison Vergeront, Polson, MT
Eric Hinebauch, Chinook, MT
Tara Guckeen, Billings, MT
McKencie Stoltz, Billings, MT
Sapphire Diamant-Rink, East Glacier, MT
Salliann Grovam, Helena, MT
Josh Waller, Cut Bank, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 24, 2003:

TITLE

NAME

SPONSOR

Pages:

Taylor Moorman, Glasgow, MT	Senator Kitzenberg
Marcus Thomas, Stevensville, MT	Senator Thomas
Bryan Hansen, Hamilton, MT	Senator Laible
Amber King, Helena, MT	Senator Stapleton
Angela Lemire, Missoula, MT	Senator Ellingson
Jenna Cederberg, Missoula, MT	Senator Cocchiarella
Jedediah Cox, Forsyth, MT	Senator Zook

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/22/2003

HB 388, introduced by Lake

HB 416, introduced by Younkin

HB 499, introduced by Franklin

HB 505, introduced by Gallus

HB 537, introduced by Lawson

HB 559, introduced by Gallus

HB 627, introduced by Lindeen

Senate bill concurred in and returned to the Senate:

2/22/2003

SB 164, introduced by Mangan

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FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 462, introduced by DePratu, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Stapleton moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McCarthy in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 374 - Senator Cooney moved consideration of **SB 374** be placed at the bottom of the second reading board for the purpose of obtaining copies of the bill. Motion carried.

SB 192 - Senator O'Neil moved **SB 192** do pass. Motion carried with Senators Cromley and Ellingson voting nay.

SB 282 - Senator Cocchiarella moved **SB 282**, second reading copy, be amended as follows :

1. Title, page 1, line 4.

Following: "BENEFITS"

Insert: "NOT"

Amendment **adopted** unanimously.

SB 282 - Senator Squires moved **SB 282**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Barkus, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 37

Nays: Bales, Butcher, Curtiss, Esp, Gebhardt, McGee, Stapleton, Story, Mr. President.
Total 9

Absent or not voting: Black, Cobb, Johnson.
Total 3

Excused: Harrington.
Total 1

SB 321 - Senator Laible moved **SB 321** do pass. Motion carried with Senators Ellingson and Toole voting nay.

SB 389 - Senator McGee moved **SB 389** do pass. Motion carried unanimously.

Senator Harrington present at this time.

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SB 401 - Senator Wheat moved **SB 401** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 406 - Senator McGee moved **SB 406** do pass. Motion carried unanimously.

SB 416 - Senator Barkus moved **SB 416** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook.
Total 27

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McCarthy moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 115 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash,

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Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 45

Nays: Esp, Johnson, O'Neil, Story, Mr. President.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 184 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 46

Nays: Ellingson, Mangan, Toole, Wheat.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 195, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp, Story.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 205 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Esp, Ryan, Stapleton.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 221 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 250 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 253 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Gebhardt, Roush.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 298 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 33

Nays: Cobb, Cooney, Cromley, Ellingson, Hansen, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 307 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SB 315 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 331 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 336 passed as follows:

Yeas: Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, Nelson, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Toole, Tropila, Wheat.

Total 28

Nays: Anderson, Bales, Butcher, Cobb, Curtiss, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Mangan, McGee, McNutt, O'Neil, Roush, Story, Taylor, Tester, Thomas, Zook, Mr. President.

Total 22

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 340 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 343 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Johnson, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 363 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 36

Nays: Cooney, Cromley, Ellingson, Hansen, Harrington, McCarthy, O'Neil, Schmidt, Shea, Squires, Stonington, Tester, Toole, Wheat.
Total 14

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 376 passed as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Black.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 377 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 380 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

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Nays: DePratu, Nelson.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 399 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Esp, Schmidt, Tester.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 413 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 414 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 419 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 39

Nays: Cromley, Ellingson, Hansen, Harrington, McCarthy, O'Neil, Schmidt, Shea, Squires, Toole, Wheat.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 438 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 17 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton,

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Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 108 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Elliott, Schmidt, Toole.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

SJR 17 - Senator DePratu moved he be allowed to change his vote on **SJR 17**, third reading this day, from nay to yea.
Motion carried.

SB 30 - Senator O'Neil moved **SB 30** be taken from the committee on Finance and Claims, printed and placed on second reading on the forty-second legislative day, February 25, 2003. Motion **failed** as follows:

Yeas: Anderson, Bales, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, O'Neil, Perry, Sprague, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.
Total 24

Nays: Barkus, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.
Total 26

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 336 Senator Story moved he be allowed to change his vote on **SB 336**, third reading this day, from nay to yea. Motion carried.

SJR 17 - Senator Taylor moved he be allowed to change his vote on **SJR 17**, third reading this day, from nay to yea. Motion carried.

SJR 17 - Senator Bales moved he be allowed to change his vote on **SJR 17**, third reading this day, from nay to yea. Motion carried.

SB 453 - Senator Thomas moved he be allowed to add Barkus, Bohlinger, DePratu, Ellingson, Elliott, Esp, Glaser, Johnson, Keenan, Liable, Mahlum, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Sprague, Tester, F. Thomas, Wheat, and Zook as sponsors to **SB 453**. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 12:00 noon, Tuesday, February 25, 2003. Motion carried.

Senate adjourned at 3:22 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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58TH LEGISLATURE
FORTY-SECOND LEGISLATIVE DAY**

Helena, Montana
February 25, 2003

Senate Chambers
State Capitol

Senate convened at 12:04 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except members of the Business and Labor Committee, and Senators Harrington and Schmidt, excused. Quorum present.

The presiding officer has authenticated the daily journal for the forty-first legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 462.**

Correctly engrossed: **SB 239, SB 270, SB 271, SB 282, SB 287, SB 303, SB 304, SB 323, SB 339, SB 366, SB 421, SB 424.**

Correctly enrolled: **SB 164, SB 195.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
SB 375, introduced bill, be amended as follows:

2/25/2003

1. Page 1, line 11 through line 12.

Following: "used" on line 11

Strike: remainder of line 11 through "devices" on line 12

Insert: "as a boundary fence between adjacent private properties"

2. Page 1, line 13 through 14.

Following: "may" on line 13

Strike: remainder of line 13 through "circumstances" on line 14

Insert: "be used only in commercial applications such as soil erosion control, retaining walls, corrals, interior fencing, safety uses, streambank stabilization, or state civil engineering projects"

3. Page 1, line 18.

Insert: "NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 381, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):
SB 267, introduced bill, be amended as follows:

2/25/2003

1. Title, line 5.

Strike: "\$20,000"

Insert: "\$10,000"

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2. Title, line 6.

Strike: "5"

Insert: "3"

3. Title, line 8.

Strike: "4"

Insert: "3"

4. Title, line 9.

Strike: "4"

Insert: "3"

5. Title, line 10.

Strike: "OTHER"

Insert: "300"

6. Title, line 11.

Following: "TEACHING;"

Insert: "IMPOSING A \$10 APPLICATION FEE;"

7. Title, line 13.

Strike: "OR CALCULATION OF SAME SALARY"

8. Page 1, line 22.

Strike: "\$20,000"

Insert: "\$10,000"

9. Page 1, line 24.

Strike: "and"

10. Page 1, line 30.

Following: "41-5-103"

Insert: "; and

(c) employed to teach in the area in which the teacher is certified"

11. Page 2, line 14.

Strike: "and"

12. Page 2, line 22.

Strike: "subsection (2)"

Insert: "this section"

13. Page 2, line 23.

Strike: "\$6,000"

Insert: "\$5,000"

Strike: "and"

14. Page 2, line 24.

Strike: "\$3,500" through "years"

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Insert: "\$3,000 in the second year"

Following: "employment"

Insert: "; and

(c) \$2,000 in the third year of employment"

15. Page 2, line 25 through line 27.

Strike: subsection (6) in its entirety

Renumber: subsequent subsections

16. Page 2, line 30.

Following: "days"

Insert: "and has paid a \$10 application fee"

17. Page 3, line 1.

Following: "(8)"

Insert: "(a)"

18. Page 3, line 3.

Following: "district."

Insert: "(b)"

19. Page 3.

Following: line 6

Insert: "(c) Reassignment of a teacher to another teaching position within the district that is ineligible for a bonus payment does not make the teacher ineligible for the remainder of the bonus payment."

20. Page 3, line 7.

Following: "(9)"

Insert: "(a)"

21. Page 3, line 10.

Strike: "(a)"

Insert: "(i)"

22. Page 3, line 11.

Strike: "(b)"

Insert: "(ii)"

23. Page 3.

Following: line 12

Insert: "(b) The form must be accompanied by the application fee for each eligible teacher as provided in subsection (6)."

24. Page 3, line 13.

Following: "shall"

Insert: "deposit the application fee in the general fund and"

25. Page 3, line 16 through line 17.

Strike: "retirement contributions"

Insert: "the employer's contribution for unemployment insurance"

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26. Page 3, line 18 through line 22.

Strike: subsection (12) in its entirety

Renumber: subsequent subsections

27. Page 3, line 24.

Strike: "a district"

Insert: "the superintendent of public instruction"

28. Page 3, line 24 through line 25.

Following: "state" on line 24

Strike: "to" on line 24 through "district" on line 25

29. Page 3, line 30.

Following: "career."

Insert: "The term includes a person who is assigned some duties as a supervising teacher."

30. Page 4, line 2 through line 6.

Strike: ":" on line 2 through "census" on line 6

Insert: "the following locale codes developed by the U.S. bureau of the census:

(i) locale code 4, except for a school district with more than 500 students assigned to this locale code;

(ii) locale code 7; and

(iii) locale code 8"

And, as amended, do pass. Report adopted.

SB 411, introduced bill, be amended as follows:

1. Page 3, line 10.

Strike: "and knowledge"

Strike: "mental and physical"

2. Page 3, line 13.

Strike: "and political"

3. Page 3, line 14.

Following: "nation;"

Insert: "and"

4. Page 3, line 15.

Strike: "; and"

Insert: "."

5. Page 3, line 16.

Strike: subsection (h) in its entirety

And, as amended, do pass. Report adopted.

SB 441, introduced bill, be amended as follows:

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1. Page 4, line 11.

Strike: "50%"

Insert: "35%"

And, as amended, do pass. Report adopted.

SB 454, introduced bill, be amended as follows:

1. Title, line 4 through line 5.

Strike: "AND" on line 4 through "GRANTS" on line 5

2. Title, line 5.

Strike: "SCHOOL DISTRICTS,"

3. Title, line 6.

Following: "RETIREMENT"

Strike: ", "

4. Title, line 8.

Strike: "25,"

Following: "26"

Strike: ", "

5. Page 1, line 13 through page 2, line 8.

Strike: section 1 in its entirety

Renumber: subsequent sections

6. Page 4, line 2.

Strike: "14,442"

Insert: "117,375"

7. Page 4, line 14.

Strike: "3,798,057"

Insert: "3,900,990"

8. Page 4, line 15 through line 16.

Strike: "used" on line 15 through "be" on line 16

9. Page 4, line 16.

Strike: "2006"

Insert: "2004"

10. Page 6, line 10.

Strike: "173,489"

Insert: "69,930"

11. Page 6, line 22.

Strike: "1,753,647"

Insert: "1,650,088"

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12. Page 6, line 23 through line 24.

Strike: "used" on line 23 through "be" on line 24

13. Page 6, line 24.

Strike: "2006"

Insert: "2004"

14. Page 6, line 27.

Following: "instruction"

Insert: "-- direction to code commissioner"

Following: "."

Insert: "(1)"

Strike: "through 3"

Insert: "and 2"

15. Page 6, line 29.

Strike: "through 3"

Insert: "and 2"

16. Page 6.

Following: line 29

Insert: "(2) The code commissioner is directed to codify section 25, Chapter 13, Special Laws of August 2002, as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to that section."

And, as amended, do pass. Report adopted.

SJR 20, be adopted. Report adopted.

JUDICIARY (Grimes, Chairman):

2/25/2003

SB 18, do pass. Report adopted.

SB 394, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "AN ACT"

Insert: "SEEKING TO ENSURE FAIRNESS IN LITIGATION BY"

And, as amended, do pass. Report adopted.

SB 447, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

2/25/2003

SJR 21, be adopted. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/24/2003

HB 42, introduced by Barrett

HB 90, introduced by E. Clark

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HB 144, introduced by Harris
HB 189, introduced by Pattison
HB 222, introduced by Parker
HB 236, introduced by Erickson
HB 283, introduced by Fuchs
HB 298, introduced by Younkin
HB 327, introduced by Harris
HB 358, introduced by Lange
HB 368, introduced by Devlin
HB 407, introduced by Gutsche
HB 417, introduced by Golie
HB 419, introduced by Laszloffy
HB 484, introduced by R. Brown
HB 520, introduced by Erickson
HB 527, introduced by Mendenhall
HB 531, introduced by Hurwitz
HB 538, introduced by Rome
HB 556, introduced by Gallik
HB 557, introduced by Andersen
HB 561, introduced by Bitney
HB 563, introduced by Laszloffy
HB 572, introduced by Lewis
HB 573, introduced by Parker
HB 578, introduced by Shockley
HB 579, introduced by Shockley
HB 585, introduced by Franklin
HB 591, introduced by Fuchs
HB 597, introduced by Wagman
HB 601, introduced by Ripley
HB 615, introduced by Franklin
HB 618, introduced by Dickenson
HB 619, introduced by Maedje
HB 636, introduced by Forrester
HB 639, introduced by Laslovich

House joint resolutions passed and transmitted to the Senate for concurrence:

2/24/2003

HJR 19, introduced by Raser
HJR 21, introduced by Morgan

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 463, introduced by Black, DePratu, F. Thomas, referred to Taxation.
SB 464, introduced by Keenan, referred to Public Health, Welfare and Safety.

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MOTIONS

SB 18 - Senator McGee moved **SB 18** be taken from the second reading board and rereferred to the committee on Finance and Claims. Motion carried.

SB 239 - Senator Ellingson moved consideration of **SB 239** be passed until the forty-third legislative day, February 26, 2003, to obtain a fiscal note. Motion carried.

HB 465 - Senator Tester moved his name be removed as co-sponsor to **HB 465**. Motion carried.

Senator Thomas moved the Senate stand in recess until the hour of 12:45 p.m. this legislative day, for purpose of party caucuses. Motion carried.

Senate recessed at 12:14 p.m.
Senate reconvened at 12:48 p.m.

Roll call. All members present except Senator Schmidt, excused.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Schmidt present at this time.

SB 426 - Senator Perry moved **SB 426** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 434 - Senator Tropila moved **SB 434** do pass. Motion carried unanimously.

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SB 426 - Senator Tester moved **SB 426** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 439 - Senator Thomas moved **SB 439** be placed below SB 366 on the second reading board. Motion carried.

SB 445 - Senator Barkus moved **SB 445** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 13 - Senator Toole moved **SJR 13** be adopted. Motion carried with Senators Bales, Laible, McGee and O'Neil voting nay.

SJR 19 - Senator Curtiss moved **SJR 19** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 33

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 17

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 23 - Senator Barkus moved **SJR 23** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 374 - Senator Laible moved consideration of **SB 374** be placed below SB 439 on the second reading board. Motion carried.

Senators Cobb, Keenan and Mangan excused at this time.

SB 337 - Senator Tropila moved **SB 337** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook.
Total 43

Nays: Cromley, Ellingson, Toole, Wheat.
Total 4

Absent or not voting: None.
Total 0

Excused: Cobb, Mangan, Mr. President.
Total 3

Senators Cobb and Keenan present at this time.
Senator Squires excused at this time.

SB 194 - Senator Tash moved **SB 194** do pass. Motion carried as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 38

Nays: Cooney, Ellingson, Hansen, Harrington, Pease, Roush, Ryan, Schmidt, Toole, Wheat.
Total 10

Absent or not voting: None.
Total 0

Excused: Mangan, Squires.
Total 2

Senator Squires present at this time.

SB 347 - Senator Stonington moved **SB 347**, second reading copy, be amended as follows:

1. Page 14, line 18.

Strike: "2004"

Insert: "2005"

Amendment **adopted** unanimously.

SB 347 - Senator Keenan moved **SB 347, as amended**, do pass. Motion carried unanimously.

SB 348 - Senator Keenan moved **SB 348** do pass. Motion carried unanimously.

Senator Stapleton moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 192 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cromley, Ellingson, Tester.
Total 3

Absent or not voting: None.

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Total 0

Excused: Mangan.

Total 1

SB 270 passed as follows:

Yeas: Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.

Total 27

Nays: Anderson, Bales, Bohlinger, Butcher, Curtiss, Esp, Gebhardt, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.

Total 23

Paired: Mangan, Aye; Thomas, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 287 passed as follows:

Yeas: Barkus, Butcher, Cocchiarella, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Hansen, Kitzenberg, Laible, McCarthy, McNutt, Nelson, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Toole, Tropila, Wheat, Zook.

Total 30

Nays: Anderson, Bales, Black, Bohlinger, Cobb, Cooney, Curtiss, Esp, Grimes, Harrington, Johnson, Mahlum, McGee, O'Neil, Roush, Stapleton, Tester, Thomas, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: Mangan.

Total 1

SB 304 passed as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

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Nays: Anderson, Barkus, DePratu, Gebhardt, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

SB 321 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Ellingson, Ryan, Schmidt, Tester, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

SB 339 passed as follows:

Yeas: Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 33

Nays: Anderson, Bales, Barkus, Black, Cobb, Curtiss, Elliott, Esp, Gebhardt, Glaser, Laible, McGee, McNutt, O'Neil, Stapleton, Story, Mr. President.
Total 17

Paired: Mangan, Aye; McGee, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 389 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum,

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McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mangan.

Total 1

SB 401 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mangan.

Total 1

SB 406 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mangan.

Total 1

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SB 416 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Perry, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook.

Total 28

Nays: Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Stonington, Tester, Toole, Tropila, Wheat, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: Mangan.

Total 1

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Zook, Chairman):

2/25/2003

SB 314, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "RAISING"

Insert: "ADJUSTING"

2. Title, line 5.

Following: "TO"

Insert: "CHILDREN"

Following: "THAN"

Strike: "200"

Insert: "17 YEARS OF AGE WITH A FAMILY INCOME AT OR BELOW 175"

Following: "LEVEL"

Insert: ", WHICH PERCENTAGE IS SUBJECT TO THE AVAILABILITY OF NONSTATE FUNDS FOR MATCHING PURPOSES"

3. Page 1, line 13.

Strike: "18"

Insert: "17"

4. Page 1, line 14.

Strike: "200%"

Insert: "150%"

5. Page 1, following line 27.

Insert: "(5) (a) Subject to the availability of nonstate matching funds, a child may be considered eligible for the program if the combined family income is above 150% and at or below 175% of the federal poverty level and the criteria in subsections (1)(a) through (1)(e) are met.

(b) "Nonstate matching funds" includes but is not limited to funds from private sources, including grants, gifts,

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and donations, and does not include funds from general or specific taxes or fees."

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):
SB 362, introduced bill, be amended as follows:

2/25/2003

1. Title, line 4 through line 7.

Following: "'AN ACT" on line 4

Strike: remainder of line 4 through "OFFENSE;" on line 7

2. Title, line 8.

Following: "AGE;"

Insert: "REQUIRING CHEMICAL DEPENDENCY ASSESSMENT AND TREATMENT IN CERTAIN CASES;
REQUIRING COURTS TO REPORT THE NAMES OF MINORS WHO ARE ORDERED TO COMPLETE
CHEMICAL DEPENDENCY TREATMENT TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
SERVICES AND REQUIRING THAT DEPARTMENT TO MAKE THE NAMES AVAILABLE UPON
REQUEST TO PEACE OFFICERS AND COURTS;"

3. Page 1, line 14 through line 15.

Following: "substance --" on line 14

Strike: remainder of line 14 through "substance --" on line 15

4. Page 1, line 16.

Following: line 15

Strike: "(a)"

5. Page 1, line 20 through line 22.

Strike: subsection (b) in its entirety

6. Page 1, line 25.

Following: "exceed"

Strike: "\$150"

Insert: "\$300"

7. Page 2, line 1 through line 2.

Following: "the license" on line 1

Strike: remainder of line 1 through "days" on line 2

Insert: "confiscated by the court for 30 days, except as provided in subsection (2)(b)"

8. Page 2, line 3.

Strike: "\$150"

Insert: "\$200"

Strike: "\$250"

Insert: "\$600"

9. Page 2, line 8.

Following: "available;"

Strike: "and"

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10. Page 2, line 9 through line 10.

Following: "the license" on line 9

Strike: remainder of line 9 through "days;" on line 10

Insert: "confiscated by the court for 6 months, except as provided in subsection (2)(b); and

(D) shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8);"

11. Page 2, line 11.

Strike: "\$500"

Insert: "\$900"

12. Page 2, line 12.

Following: "service,"

Strike: "and"

13. Page 2, line 15.

Following: "available"

Insert: ",and shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8)"

14. Page 2, line 17 through line 18.

Following: "shall" on line 17

Strike: remainder of line 17 through "days" on line 18

Insert: "confiscate the license for 6 months, except as provided in subsection (2)(b)"

15. Page 2, line 24.

Following: "shall"

Strike: "order"

Insert: "confiscate"

Following: "license"

Strike: "suspended"

16. Page 2, line 25.

Strike: "6"

Insert: "9"

17. Page 2, line 26.

Following: line 25

Insert: "(c) The court shall retain jurisdiction for up to 1 year to confiscate a license under subsection (2)(b)."

18. Page 2, line 27.

Strike: "under this section"

Insert: "of the offense of possession of an intoxicating substance"

19. Page 2, line 28.

Strike: "not less than \$100 and"

Following: "and"

Insert: "and"

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20. Page 2, line 29.

Following: "may"

Strike: "shall"

Insert: "may"

Following: "perform"

Strike: "40 hours of"

21. Page 2, line 29 through line 30.

Following: "service" on line 29

Strike: remainder of line 29 through "days" on line 30

22. Page 3, line 3.

Following: line 2

Insert: "(b) for a second offense, shall be fined an amount not to exceed \$200 and may be ordered to perform community service;"

Renumber: subsequent subsections

23. Page 3, line 3.

Following: "~~third~~"

Strike: "second"

Insert: "third"

Following: "amount"

Strike: "not less than \$150 and"

24. Page 3, line 5.

Following: "may"

Strike: "shall"

Insert: "may"

Following: "perform"

Strike: "60 hours of"

25. Page 3, line 5 through line 6.

Following: "service" on line 5

Strike: remainder of line 5 through "days" on line 6

26. Page 3, line 7 through line 8.

Following: "~~to complete~~" on line 7

Strike: remainder of line 7 through "participation in" on line 8

Insert: "to complete"

27. Page 3, line 9.

Following: "services,"

Strike: "if available"

28. Page 3, line 11.

Following: "~~or both~~"

Insert: "which may, in the sentencing court's discretion and upon recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both"

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29. Page 3, line 12.

Following: "6"

Strike: "4"

Insert: "6"

30. Page 3, line 13.

Following: "months"

Strike: ":",

Insert: "."

31. Page 3, line 14 through line 15.

Strike: subsection (c) in its entirety

32. Page 3, line 28.

Following: "section"

Strike: "may not"

Insert: "must"

33. Page 3, line 29 through line 30.

Following: "department of" on line 29

Strike: remainder of line 29 through "subsection (2)(b)" on line 30

Insert: "public health and human services if treatment is ordered under subsection (8)"

34. Page 4, line 18.

Following: "failure."

Insert: "(f) The court shall report to the department of public health and human services the name of any person who is ordered to complete chemical dependency treatment under this subsection (8). The department of public health and human services shall maintain a list of those persons who have been ordered to complete treatment under this subsection (8). This list must be made available upon request to peace officers and to any court."

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

2/25/2003

SB 409, introduced bill, be amended as follows:

1. Page 2, line 4.

Strike: "productively"

Strike: "property"

Insert: "state coal"

2. Page 2, line 7.

Strike: "reverse"

Insert: "address"

3. Page 2.

Following: line 11

Insert: "WHEREAS, the State of Montana and the Northern Cheyenne have worked together and negotiated the Otter

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Creek Settlement Agreement, and the state recognizes the importance of involving the Northern Cheyenne in cultural resource inventories and assessments; and"

4. Page 2, line 12.

Strike: "state"

Insert: "State"

5. Page 2, line 15.

Following: "generation"

Insert: "and necessary transmission infrastructure"

6. Page 2, line 21.

Following: "agencies"

Insert: "and the Northern Cheyenne tribe"

7. Page 3, line 6.

Insert: "(4) Nothing in this section is intended to alter, diminish, or impair the Otter Creek settlement agreement between the state of Montana and the Northern Cheyenne tribe, and nothing in this section prevents the state from cooperating with the Northern Cheyenne tribe to enforce air and water quality standards through government-to-government reciprocity agreements."

8. Page 3, line 9.

Following: "with"

Insert: "the private surface owners and"

Strike: "mineral interests that were not"

Insert: "coal property interests that are located in a checkerboard arrangement with the mineral interests"

9. Page 3, line 12.

Strike: "maximize"

Insert: "optimize"

10. Page 4, line 18.

Strike: "governments"

Insert: "government"

11. Page 4, line 19 through line 20.

Strike: "each" on line 19 through "Chippewa" on line 20

Insert: "the Northern Cheyenne tribal government"

And, as amended, do pass. Report adopted.

SB 436, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "PROTECTIONS;"

Insert: "REQUIRING THIRD-PARTY CERTIFICATIONS AT CERTAIN STAGES OF THE MINING PROCESS;"

2. Page 2, line 15.

Following: "(3)"

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Insert: "(a)"

3. Page 2, line 17.

Following: "permit."

Insert: "(b) A mandatory independent third-party certification is required to ensure that the mine is constructed, operated, and closed in conformance with the design, safety, and environmental standards required by the state and federal laws and regulations and the operating permit. The certification must occur:

- (i) at critical construction phases;
- (ii) annually during mining operations; and
- (iii) during closure and reclamation phases.

(c) Certifications must be conducted in accordance with rules adopted by the board, certifying that the operation is in conformance with design, safety, and environmental standards.

And, as amended, do pass. Report adopted.

SB 456, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "REVISING BOARD RULEMAKING REQUIREMENTS;"

2. Title, line 7.

Strike: "90-6-305,"

Following: "90-6-307"

Strike: ", "

3. Page 1, line 13 through line 24.

Strike: section 1 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

2/25/2003

SB 448, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "2-18-702,"

Insert: "2-18-703,"

2. Title, page 1, line 7.

Strike: "2-18-811,"

Following: "2-18-813,"

Insert: "AND"

Strike: "AND 2-18-816,"

3. Page 1, line 12.

Following: "enrollment."

Insert: "(1)"

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4. Page 1, line 13.

Strike: "and local"

5. Page 1, line 14.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsection

6. Page 1, line 16.

Strike: "must"

Insert: "shall"

7. Page 1, line 18.

Insert: "(2) The department shall establish reasonable risk and administrative costs in setting premiums for local government entities. The risk costs apply to any new group for the first 3 years."

8. Page 1, line 27.

Strike: "For each" through "representative"

Insert: "Local government employees are allowed proportional representation"

9. Page 4, line 12.

Strike: "it applies"

Insert: "applied"

10. Page 4, line 12.

Following: "employed"

Insert: "by a local governmental entity, as defined in 2-18-809, or"

11. Page 5, line 10.

Strike: "and local"

12. Page 6, line 3.

Following: "State"

Insert: "and local"

Following: "in state"

Strike: "and local"

13. Page 6, line 16.

Insert: "**Section 6.** Section 2-18-703, MCA, is amended to read:

"2-18-703. Contributions. (1) Each agency, as defined in 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward the group benefits cost.

(2) For state employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is \$295 a month for the period from July 2001 through December 2001, \$325 a month for the period from January 2002 through December 2002, and \$366 a month for January 2003 and for each succeeding month. For employees of the Montana university system, the employer contribution for group benefits is \$325 a month for the period from July 2001 through June 2002 and \$366 a month for the period from July 2002 through June 2003 and for each succeeding month. When a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not

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eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution. A portion of the employer contribution for group benefits may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security Act, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts and of local government units, the employer's premium contributions may exceed but may not be less than \$10 a month. Subject to the public hearing requirement provided in 2-9-212(2)(b), the increase in a local government's property tax levy for premium contributions for group benefits beyond the amount of contributions in effect on July 1, 1999, is not subject to the mill levy calculation limitation provided for in 15-10-420.

(4) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(5) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

(6) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents.""

Renumber: subsequent sections

14. Page 7, line 3.

Following: "state employee"

Insert: "or local employee"

15. Page 7, line 11.

Following: "(5)"

Insert: "(a)"

16. Page 7, following line 11.

Insert: "(b) The term does not include employees of school districts."

17. Page 7, line 14.

Strike: "school districts,"

18. Page 7, line 22.

Strike: "and local"

19. Page 7, line 24.

Strike: "and local"

20. Page 7, line 28 through page 8, line 10.

Strike: section 9 in its entirety

Renumber: subsequent sections

21. Page 8, line 17.

Strike: "and local"

22. Page 8, line 20.

Strike: "and local"

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23. Page 8, line 21.

Strike: "and local"

24. Page 8, line 24.

Strike: "and local"

25. Page 9, line 17.

Following: "state"

Strike: "and local"

26. Page 9, line 23.

Strike: "and local"

27. Page 9, line 27 through page 10, line 1.

Strike: section 13 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 452, introduced bill, be amended as follows:

1. Title, page 1, lines 4 through 6.

Strike: "REQUIRING" on line 4 through "PUBLIC;" on line 6

Insert: "EXPANDING AND"

2. Page 1, lines 12 through 28.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 4, lines 6 and 7.

Strike: section 5 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 455, introduced bill, be amended as follows:

1. Page 2, line 22.

Strike: "and"

2. Page 2, line 23.

Following: "implications"

Insert: "; and

(d) a fiscal statement, if required pursuant to 13-27-312"

And, as amended, do pass. Report adopted.

SJR 24, be adopted. Report adopted.

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MOTIONS

SB 436 - Senator Shea moved to remove Keenan and Lenhart as sponsors to **SB 436**. Motion carried.

SB 354 - Senator Bohlinger moved **SB 354** be taken from the table in the committee on Business and Labor, printed and placed on the second reading board. Motion **failed** as follows:

Yeas: Anderson, Bohlinger, Butcher, Cobb, Cromley, Glaser, Johnson, Kitzenberg, Perry, Tash, Taylor, Thomas.
Total 12

Nays: Bales, Barkus, Black, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 37

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

SB 92 - Senator Ryan moved **SB 92** be taken from the Education committee, printed and placed on second reading the forty-third legislative day. Motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Wednesday, February 26, 2003. Motion carried.

Senate adjourned at 3:34 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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58TH LEGISLATURE
FORTY-THIRD LEGISLATIVE DAY**

Helena, Montana
February 26, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Tester, excused. Quorum present.

The presiding officer has authenticated the daily journal for the forty-second legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 463, SB 464.**

Correctly engrossed: **SB 267, SB 314, SB 347, SB 362, SB 375, SB 394, SB 409, SB 411, SB 436, SB 441, SB 448, SB 452, SB 454, SB 455, SB 456.**

Examined by the sponsor and found to be correct: **SB 164, SB 195.**

Signed by the Speaker at 11:40 a.m., February 26, 2003: **SB 164, SB 195.**

Signed by the President at 9:15 a.m., February 26, 2003: **SB 195.**

Signed by the President at 10:15 a.m., February 26, 2003: **SB 164.**

Signed by the Secretary of the Senate at 10:20 a.m., February 26, 2003: **SB 164, SB 195.**

Delivered to the Governor for approval at 11:50 a.m., February 26, 2003: **SB 164, SB 195.**

BUSINESS AND LABOR (Mahlum, Chairman):
SB 341, introduced bill, be amended as follows:

2/25/2003

1. Title, page 1, line 4.

Strike: "60"

Insert: "45"

2. Title, page 1, line 8.

Following: "CANCELLATON"

Strike: ", ALTERATION" through "A"

Insert: "OR NONRENEWAL OF POLICIES ISSUED TO A SPECIFIC GROUP OF"

3. Title, page 1, line 9.

Strike: "POLICYHOLDER"

Insert: "POLICYHOLDERS"

4. Page 1, line 17.

Strike: "60"

Insert: "45"

5. Page 1, line 25.

Strike: "60"

Insert: "45"

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6. Page 2, line 16.

Strike: "60"

Insert: "45"

7. Page 2, line 25.

Strike: "60"

Insert: "45"

8. Page 2, line 27.

Strike: "60"

Insert: "45"

9. Page 3, line 10.

Strike: "60"

Insert: "45"

10. Page 4, line 6.

Strike: "physician and surgeon,"

Insert: "person licensed in the practice of medicine, as defined in 37-3-102, a"

11. Page 4, line 11.

Strike: "120"

Insert: "60"

12. Page 4, line 13.

Following: line 12

"NEW SECTION. Section 7. Cancellation or nonrenewal of all policies. Any insurer insuring a person described in 33-23-302 who elects to cancel or not renew all policies for all persons identified in 33-23-302 shall provide notice of the decision to cancel or not renew coverage to all affected persons described in 33-23-302 at least 120 days prior to cancellation or nonrenewal."

13. Page 4, line 18.

Strike: "60"

Insert: "45"

14. Page 4, line 21.

Following: line 20

Insert: "NEW SECTION. Section 9. Codification instruction. [Section 7] is intended to be codified as an integral part of Title 33, chapter 23, part 3, and the provisions of Title 33, chapter 23, part 3, apply to [section 7]."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 349, do pass. Report adopted.

SB 391, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "AN IRREGULAR"

Insert: "A SPORADIC"

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2. Title, line 5 through line 6.

Strike: "TO" on line 5 through "CHILDREN" on line 6

3. Page 1, line 17.

Strike: "irregular"

Insert: "sporadic"

4. Page 1, line 19 through line 20.

Strike: "i" on line 19 through "(i)" on line 20

5. Page 1, line 20.

Following: "regular"

Insert: "or sporadic"

6. Page 1, line 20 through line 21.

Strike: "i" on line 20 through "basis" on line 21

7. Page 2, line 30.

Strike: "(15)(a)"

Insert: "(16)(a)"

8. Page 1, line 25 through line 26.

Strike: "an irregular" on line 25 through "(3)(a)(ii)," on line 26

Insert: "a place licensed or registered to provide day care on a sporadic basis to children attending drop-in day care"

9. Page 2.

Following: line 5

Insert: "(6) "Drop-in day care" means care provided to 13 or more individual children on a sporadic basis for less than 10 hours a week."

Renumber: subsequent subsections

10. Page 3, line 15.

Strike: "an irregular"

Insert: "a sporadic"

11. Page 3, line 20.

Strike: "an irregular"

Insert: "a sporadic"

12. Page 4, line 6.

Strike: "an irregular"

Insert: "a sporadic"

And, as amended, do pass. Report adopted.

SB 402, introduced bill, be amended as follows:

1. Page 1, line 22.

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Following: "originator"

Insert: "after September 1, 2004,"

2. Page 2, line 6.

Following: line 5

Insert: "(5) "Entity" means a business organization, other than a sole proprietorship or an individual person, that provides mortgage broker services."

Renumber: subsequent subsections

3. Page 3, lines 11 and 12.

Following: "banker"

Strike: remainder of line 11 through "services" on line 12

Insert: "who is regulated by the United States department of housing and urban development. A mortgage banker who is not regulated by the department of housing and urban development who also provides services as a mortgage broker must be licensed as a mortgage broker with respect to those mortgage broker services"

4. Page 3, line 16.

Strike: "by"

Insert: "on or after"

5. Page 3, line 19.

Following: "department."

Insert: "All licenses issued under this section are nontransferable and nonassignable."

6. Page 3, lines 29 and 30.

Following: "license" on line 29

Strike: "as" through "business" on line 30

Following: "license" on line 30

Strike: "must"

Insert: "shall"

7. Page 4, line 14.

Strike: "However, by"

Insert: "On or after"

8. Page 5, line 4.

Following: "each"

Insert: "individual"

9. Page 5, line 13.

Following: "investigation."

Insert: "The department may deny the application if the applicant's criminal history demonstrates any felony criminal convictions or other convictions involving fraud or dishonesty or if the applicant has had any adverse civil judgments involving fraudulent or dishonest dealings."

10. Page 6, line 1.

Following: "investigation."

Insert: "The department may deny the application if the applicant's criminal history demonstrates any felony criminal

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convictions or other convictions involving fraud or dishonesty or if the applicant has had any adverse civil judgments involving fraudulent or dishonest dealings."

11. Page 6, line 17.

Strike: "A"

Insert: "An individual"

Following: "broker"

Insert: "or an entity seeking licensure as a mortgage broker"

12. Page 6, line 18.

Strike: "for" through "state"

13. Page 6, line 19.

Strike: "\$200"

Insert: "\$400"

14. Page 6, lines 19 and 20.

Strike: "The" on line 19 through "year" on line 20

Insert: "An applicant shall pay one-half of these initial nonrefundable license application fees for any license period of less than 6 months"

15. Page 6, lines 23 and 24.

Strike: "processing" on line 23 through "applications" on line 24

Insert: "the program"

16. Page 7, lines 2 and 3.

Following: "originators" on line 2

Strike: remainder of line 2 through "proprietor" on line 3

Insert: "and all individual"

Following: "brokers" on line 3

Strike: ", and all designated managers"

17. Page 7, line 16.

Following: "licensee"

Insert: "or licensed entity"

18. Page 7, line 18.

Following: "licensee"

Insert: "or licensed entity"

19. Page 7, line 29.

Strike: "A" through "entity"

Insert: "Each licensee"

20. Page 8, line 1.

Strike: "The"

Insert: "A"

Following: "broker"

Insert: "or loan originator"

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21. Page 8, line 2.

Following: "broker's"

Insert: "or loan originator's"

22. Page 11, line 3.

Strike: "investigate"

Insert: "examine"

Following: second "any"

Insert: "mortgage broker"

23. Page 11, lines 5 and 6.

Following: "licensee" on page 5

Strike: remainder of line 5 through "practices" on line 6

24. Page 11, line 7.

Strike: "mortgage broker entity"

Insert: "licensee"

25. Page 11, line 8.

Strike: "mortgage broker entity"

Insert: "licensee"

26. Page 11, lines 15 and 16.

Following: "all" on line 15

Strike: remainder of line 15 through "licensee" on line 16

Insert: "confidential criminal justice information"

27. Page 11, line 23.

Strike: "mortgage brokers"

Insert: "licensees"

28. Page 12, line 28.

Following: "(1)"

Insert: "is guilty of a misdemeanor and"

And, as amended, do pass. Report adopted.

SB 415, introduced bill, be amended as follows:

1. Page 1, line 16.

Following: "(a)"

Insert: "(i)"

Strike: "9"

Insert: "18"

Strike: "2,500"

Insert: "6,000"

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2. Page 1, line 17.

Strike: "(b)"

Insert: "(ii)"

Strike: "5 miles"

Insert: "1 mile"

3. Page 1, line 19.

Strike: "(c)"

Insert: "(iii)"

4. Page 1, line 20.

Following: "application"

Insert: "; or

(b)(i) the golf course must consist of at least 9 holes and 2,500 lineal yards;

(ii) the governing body of the golf course is incorporated under section 501(c)(3) of the Internal Revenue Code;

(iii) the golf course must be within 3 miles of the limits of an incorporated city or town; and

(iv) the applicant for a license under this section may not have held a beer and wine or all-beverages license within 12 months of the date of application"

And, as amended, do pass. Report adopted.

SB 430, introduced bill, be amended as follows:

1. Title, lines 8 and 9.

Following: "ACCESS;" on line 8

Strike: remainder of line 8 through "PREMISES;" on line 9

2. Title, line 14.

Strike: "70-24-426,"

3. Page 5, line 22 through page 6, line 10.

Strike: section 6 in its entirety

Renumber: subsequent sections

4. Page 6, line 27.

Following: "7"

Insert: "calendar"

And, as amended, do pass. Report adopted.

SB 444, do pass. Report adopted.

SB 450, introduced bill, be amended as follows:

1. Page 2, line 27.

Strike: "Except" through "attorney"

Insert: "Attorney"

Following: "may"

Insert: "only be awarded under the provisions of subsection (1) and may"

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2. Page 3, line 13.

Strike: "Except" through "attorney"

Insert: "Attorney"

Following: "may"

Insert: "only be awarded under the provisions of subsections (1) and (2) and may"

And, as amended, do pass. Report adopted.

SB 458, introduced bill, be amended as follows:

1. Page 2, line 5.

Following: "successor"

Strike: "in interest to"

Insert: "of"

And, as amended, do pass. Report adopted.

SJR 27, be adopted. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/25/2003

SB 272, do pass. Report adopted.

SB 386, do pass. Report adopted.

SB 387, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

2/25/2003

SB 359, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "LITTERING OR"

2. Title, page 1, line 6.

Following: "HIGHWAY;"

Insert: "PROVIDING EXCEPTIONS FOR ROAD MAINTENANCE AND CONSTRUCTION AND CERTAIN COMMERCIAL PRODUCTS;"

3. Page 1, line 11.

Following: "requirement."

Insert: "(1)"

4. Page 1, line 13.

Following: "shall"

Strike: "attach, cover, or otherwise"

5. Page 1, line 14.

Following: "prevent"

Strike: "littering or"

6. Page 1, lines 14 and 15.

Following: "highway." on line 14

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Insert: "(2) This section does not apply to:"

- (a) the transport and spreading of gravel, dirt, or a related substance;
- (b) the transport of construction materials, machinery, or other items while being used in highway maintenance or construction; or
- (c) the commercial transport of unprocessed agricultural, timber, or mineral products.

And, as amended, do pass. Report adopted.

SB 422, introduced bill, be amended as follows:

1. Page 1, line 18.

Strike: "any"

Insert: "more than trace amounts"

2. Page 1, line 30.

Following: "boats,"

Insert: "airplanes authorized to use gasoline,"

3. Page 2, line 28.

Insert: "NEW SECTION. Section 5. Contingent voidness. If the 58th legislature does not pass and the governor does not approve a law that amends 15-70-204(3) to increase the tax on gasohol from 85% of the tax imposed in 15-70-204(1), then [this act] is void."

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/25/2003

HB 411, introduced by Gallus

HB 441, introduced by Cyr

HB 512, introduced by Sinrud

HB 608, introduced by Windy Boy

HB 644, introduced by Rice

HB 647, introduced by B. Thomas

HB 653, introduced by Lambert

MOTIONS

SB 156 - Senator O'Neil moved **SB 156** be taken from the committee on Judiciary, printed and placed on the second reading board. Motion **failed** as follows:

Yeas: Anderson, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Johnson, McGee, O'Neil, Taylor, Mr. President.

Total 11

Nays: Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Thomas, Toole, Tropila, Wheat, Zook.

Total 38

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Absent or not voting: None.
Total 0

Excused: Tester.
Total 1

SB 240 - Senator Stonington moved **SB 240** be taken from the committee on Natural Resources, printed and placed on the second reading board. Motion **failed** as follows:

Yeas: Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, Nelson, Pease, Ryan, Schmidt, Squires, Stonington, Toole, Tropila, Wheat, Mr. President.
Total 21

Nays: Anderson, Bales, Barkus, Black, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook.
Total 28

Absent or not voting: None.
Total 0

Excused: Tester.
Total 1

SB 457 - Senator Cooney moved **SB 457** be taken from the committee on Business and Labor, printed and placed on the second reading board. Motion **failed** as follows:

Yeas: Barkus, Bohlinger, Butcher, Cobb, Cooney, Ellingson, Laible, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Ryan, Schmidt, Stapleton, Stonington, Toole, Wheat, Zook.
Total 20

Nays: Anderson, Bales, Black, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, McNutt, Perry, Roush, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Tropila, Mr. President.
Total 29

Absent or not voting: None.
Total 0

Excused: Tester.
Total 1

Senator Tester present at this time.

SB 330 - Senator Mangan moved **SB 330** be taken from the table in the committee on Energy and Telecommunications, printed and placed on the second reading board. Motion **passed** as follows:

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, DePratu, Ellingson, Elliott, Esp, Gebhardt, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Ryan, Shea, Squires, Story, Tash, Tester, Thomas,

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Tropila, Wheat.
Total 29

Nays: Anderson, Bohlinger, Butcher, Cooney, Cromley, Curtiss, Glaser, Grimes, Hansen, Harrington, Johnson, O'Neil, Roush, Schmidt, Sprague, Stapleton, Stonington, Taylor, Toole, Zook, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 194 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Cooney, Ellingson, Hansen, Pease, Roush, Schmidt, Toole.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 282 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.
Total 39

Nays: Bales, Butcher, Curtiss, Esp, Gebhardt, Grimes, Laible, McGee, Stapleton, Zook, Mr. President.
Total 11

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 337 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 46

Nays: Cromley, Ellingson, Toole, Wheat.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 348 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 434 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 445 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 13 adopted as follows:

Yeas: Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 41

Nays: Anderson, Bales, Black, Curtiss, Esp, Gebhardt, Laible, McGee, O'Neil.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 19 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 34

Nays: Cooney, Cromley, Ellingson, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 16

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 23 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

SB 445 - Senator Squires moved she be allowed to change her vote on **SB 445**, third reading this day, from yea to nay.
Motion carried.

Senator Thomas moved the Senate stand in recess until the hour of 9:15 a.m. this legislative day for purpose of party caucuses. Motion carried.

Senate recessed at 8:51 a.m.
Senate reconvened at 9:39 a.m.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

JOINT SELECT COMMITTEE ON DISTRICTING AND APPORTIONMENT (Barkus, Chairman) 2/26/2003
SB 428, do pass. Report adopted.
SB 429, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman): 2/26/2003
SB 46, do pass. Report adopted.
SB 370, introduced bill, be amended as follows:

1. Page 2, line 22.
Following: "(3)"
Insert: "(a)"

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2. Page 2, line 23.

Strike: "inmate's third-party payor"

Insert: "detention center administrator may arrange with the health care provider to pursue reimbursement from a third-party payor for the services provided.

(b) If the health care provider is unable to collect from the third-party payor within 120 days from the date of the service, the county is responsible for reimbursing the health care provider for the services at the medicaid reimbursement rate.

(c) If the health care provider is reimbursed by the third-party payor after the provider has been reimbursed by the county, the provider shall refund to the county the amount that the provider had been paid by the county for the services provided to the inmate"

3. Page 3.

Following: line 24

Insert: "(c) If a municipality commits a person to the detention center of the county in which the municipality is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that municipality, then the county in which the municipality is located is responsible."

And, as amended, do pass. Report adopted.

SJR 25, be adopted. Report adopted.

SJR 26, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

2/26/2003

SB 321, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Following: "TASKS;"

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 4.

Following: line 28

Insert: "NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

SB 449, introduced bill, be amended as follows:

1. Page 2.

Following: line 5

Insert: "(4) A local fetal, infant, and child mortality review team may not review deaths of fetuses, infants, or children who are Indians and which deaths occur within the boundaries of an Indian reservation with a tribal government that opposes the review."

2. Page 2, line 11.

Strike: "as determined by"

Insert: "if"

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Following: "government"

Insert: "agrees"

3. Page 2, line 12.

Strike: " "

And, as amended, do pass. Report adopted.

SB 451, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "ASSISTANCE"

Insert: "TREATMENT"

2. Page 1, line 18.

Strike: "and medicare-eligible"

3. Page 1.

Following: line 29

Insert: "(v) a tobacco use resource center;"

Renumber: subsequent subsections

4. Page 2, line 17.

Following: "provide"

Insert: "matching"

Strike: "assist"

Insert: "secure federal funds to treat"

Strike: "and medicare-eligible"

5. Page 3, line 11.

Strike: "assist"

Insert: "treat"

And, as amended, do pass. Report adopted.

MOTIONS

SB 458 - Senator McNutt moved **SB 458** be taken from the second reading board and rereferred to the committee on Finance and Claims in order that the bill would have a better hearing than time the previous day allowed. Motion carried.

Senators Butcher and Schmidt excused at this time.

SB 277 - Senator Curtiss moved **SB 277** be taken from the committee on Energy and Telecommunications, printed and placed on the second reading board. Motion **carried** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Curtiss, DePratu, Esp, Gebhardt, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

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Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Glaser, Hansen, Harrington, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Absent or not voting: None.

Total 0

Excused: Butcher, Schmidt.

Total 2

SB 392 - Senator Bales moved **SB 392** be taken from the committee on Fish and Game, printed and placed on the second reading board. Motion **passed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Grimes, Kitzenberg, Laible, McGee, McNutt, O'Neil, Perry, Shea, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 24

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

Senators Butcher and Schmidt present at this time.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 426 - Senator Perry moved **SB 426** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 426 - Senator Thomas moved **SB 426** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.
Total 34

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, Esp, Gebhardt, Glaser, Laible, McGee, O'Neil, Sprague, Story, Tash, Zook.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 439 - Senator Grimes moved **SB 439** do pass. Motion carried unanimously.

SB 374 - Senator Laible moved **SB 374**, second reading copy, be amended as follows:

1. Page 1, line 30.

Strike: "Nothing"

Insert: "Except as provided in subsection (4), nothing"

2. Page 1, line 30.

Strike: "prohibits"

Insert: "limits"

3. Page 2, line 2.

Insert: "(4) Subsection (3) does not apply to elections that are currently nonpartisan for school board trustees or nonpartisan for officials in cities, counties, or consolidated city-county governments."

Amendment **adopted** unanimously.

SB 374 - Senator Laible moved **SB 374**, as amended, do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

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Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 374 - Senator F. Thomas moved **SB 374** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 39

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Glaser, McGee, O'Neil, Taylor.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 239 - Senator Mangan moved **SB 239** do pass. Motion carried as follows:

Yeas: Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 43

Nays: Anderson, Barkus, Butcher, Laible, O'Neil, Sprague, Stapleton.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 366 - Senator Grimes moved **SB 366** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 43

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Nays: Bohlinger, Ellingson, Hansen, Johnson, Pease, Squires, Toole.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 405 - Senator Laible moved **SB 405** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 38

Nays: Cromley, Ellingson, Hansen, Harrington, Johnson, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 410 - Senator Taylor moved **SB 410** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 30

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Harrington, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 417 - Senator Barkus moved **SB 417** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Curtiss, DePratu, Gebhardt, Ryan, Shea, Stapleton, Thomas.
Total 10

Nays: Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry,

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Roush, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 39

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

SB 417 - Senator F. Thomas moved **SB 417** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Barkus, DePratu, Shea, Thomas.
Total 4

Absent or not voting: Toole.
Total 1

Excused: Grimes.
Total 1

SB 322 - Senator Ellingson moved **SB 322** do pass. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Taylor, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 322 - Senator F. Thomas moved **SB 322** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Ryan, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 30

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Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Nelson, Pease, Roush, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 7 - Senator Laible moved **SJR 7** be adopted. Motion carried unanimously.

SB 37 - Senator Mahlum moved **SB 37** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Cocchiarella, Gebhardt, Shea, Sprague, Squires.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 2:00 p.m. this legislative day. Motion carried.

Senate recessed at 1:04 pm.

Senate reconvened at 2:00 p.m.

Roll call. All members present except Senator Harrington, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

FISH AND GAME (Sprague, Chairman):

2/26/2003

SB 395, do pass. Report adopted.

SB 442, introduced bill, be amended as follows:

1. Title, line 6.

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Strike: "IMPORTATION,"
Following: "POSSESSION"
Strike: ", "

2. Title, line 10.
Strike: "IMPORTATION,"
Following: "POSSESSION"
Strike: ", "

3. Page 1, line 19.
Following: ";"
Strike: "or"
Insert: "and"

4. Page 1, line 20.
Strike: "department"
Following: "authorization"
Insert: "for importation from the department of livestock"
Strike: "subsection (2)"
Insert: "Title 81, chapter 2, part 7"

5. Page 1, line 21.
Strike: "importation,"
Following: "possession"
Strike: ", "

6. Page 1, line 26.
Strike: "importation,"
Following: "possession"
Strike: ", "

7. Page 1, line 28.
Strike: "imported,"
Following: "possessed"
Strike: ", "

8. Page 1, line 29.
Strike: subsection (a) in its entirety
Renumber: subsequent subsections

9. Page 2, line 12.
Following: "parrots"
Strike: ", " through "monachus"

10. Page 4, line 6.
Following: "turtles"
Insert: "with a carapace or shell length of more than 4 inches and"

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11. Page 5, line 19.

Strike: "importation,"

Following: "possession"

Strike: ", "

12. Page 6, line 8.

Strike: "importation,"

Following: "possession"

Strike: ", "

13. Page 6, line 9.

Following: "apply to"

Insert: ": (a)"

14. Page 6, line 11.

Following: "question"

Insert: "; or

(b) domestic animals"

15. Page 6, line 14.

Following: "reports"

Strike: "the"

Insert: "that"

16. Page 7, line 12.

Strike: "81-9-217"

Insert: "81-2-702"

17. Page 7, line 17.

Following: the first "state"

Insert: "for a person's temporary or permanent residence or domicile"

18. Page 8, line 16.

Following: "[section 21]."

Insert: "The department of livestock may not issue import permits for exotic wildlife on a list of controlled exotic wildlife or prohibited exotic wildlife without authorization from the department."

19. Page 9, line 9.

Following: "agriculture"

Insert: ", public health and human services,"

20. Page 9, line 12.

Following: "state"

Insert: "or that may pose a risk to human health or safety"

And, as amended, do pass. Report adopted.

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FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committee:

SB 465, introduced by Tester, DePratu, Lindeen, Mendenhall, referred to Taxation.

SB 466, introduced by Bohlinger, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 42, introduced by Barrett, referred to Finance and Claims.

HB 90, introduced by E. Clark (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.

HB 144, introduced by Harris (by request of the Department of Environmental Quality), referred to Natural Resources.

HB 189, introduced by Pattison (by request of the Department of Transportation), referred to Highways and Transportation.

HB 222, introduced by Parker (by request of the Department of Corrections), referred to Judiciary.

HB 236, introduced by Erickson, referred to Finance and Claims.

HB 283, introduced by Fuchs, Andersen, Balyeat, Esp, Glaser, Laible, Rice, Sprague, referred to Fish and Game.

HB 298, introduced by Younkin, Bohlinger, Glaser, Hurwitz, Keane, Lawson, Mahlum, McNutt, Newman, Noennig, Perry, Peterson, Schrumpf, Wanzenried, Wheat, referred to Local Government.

HB 327, introduced by Harris, referred to Judiciary.

HB 358, introduced by Lange, Noennig, Brueggeman, referred to Judiciary.

HB 368, introduced by Devlin, referred to Natural Resources.

HB 388, introduced by Lake, Fuchs, Hurwitz, Lambert, Peterson, Ross, Younkin, referred to Agriculture, Livestock and Irrigation.

HB 407, introduced by Gutsche, Balyeat, P. Clark, Cobb, Dowell, Fuchs, Gallus, Galvin-Halcro, Golie, Kitzenberg, Lindeen, McGee, F. Thomas, Tropila, Wanzenried, Wilson, referred to Fish and Game.

HB 411, introduced by Gallus, Barrett, R. Brown, Cohenour, Cyr, Facey, Fuchs, Golie, Harrington, Keane, Keenan, Lange, Laslovich, McCarthy, Newman, Roberts, Rome, Shea, Tester, F. Thomas, Wagman, referred to Fish and Game.

HB 416, introduced by Younkin, Bohlinger, Gebhardt, Golie, Haines, Hurwitz, Jacobson, McGee, Story, Wheat, referred to Local Government.

HB 417, introduced by Golie, Dowell, Fuchs, Lenhart, Matthews, McCarthy, A. Olson, Perry, Story, F. Thomas, referred to Energy and Telecommunications.

HB 419, introduced by Laszloffy, Bergren, Brueggeman, Butcher, DePratu, Elliott, Grimes, Kasten, Keane, Mahlum, Mood, Musgrove, Pattison, B. Ryan, F. Thomas, Wilson, Witt, referred to Highways and Transportation.

HB 441, introduced by Cyr, Black, Bohlinger, DePratu, Dowell, Erickson, Fisher, Forrester, Harrington, Laslovich, McGee, Newman, A. Olson, B. Olson, Tester, Wanzenried, referred to Taxation.

HB 484, introduced by R. Brown, referred to Public Health, Welfare and Safety.

HB 499, introduced by Franklin, referred to Public Health, Welfare and Safety.

HB 505, introduced by Gallus, P. Clark, Cohenour, Cooney, Dickenson, Facey, Franklin, Fuchs, Gibson, Golie, Kaufmann, McGee, Tash, Tester, Tropila, Wanzenried, Younkin, referred to Natural Resources.

HB 512, introduced by Sinrud, referred to Local Government.

HB 520, introduced by Erickson, Fritz, referred to Local Government.

HB 527, introduced by Mendenhall, referred to Natural Resources.

HB 531, introduced by Hurwitz, Barrett, Brueggeman, Bookout-Reinicke, Haines, Lake, Lehman, A. Olson, Pattison, Rice, Ripley, referred to Agriculture, Livestock and Irrigation.

HB 537, introduced by Lawson, D. Brown, Carney, DePratu, Fisher, Forrester, Hurwitz, Keane, Keenan, Laslovich, Maedje, Matthews, McCarthy, A. Olson, B. Olson, referred to Natural Resources.

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HB 538, introduced by Rome, referred to Highways and Transportation.
HB 556, introduced by Gallik, Cooney, referred to Highways and Transportation.
HB 557, introduced by Andersen, referred to Public Health, Welfare and Safety.
HB 559, introduced by Gallus, Bergren, R. Brown, Brueggeman, Forrester, Franklin, Gallik, Jacobson, Kaufmann, Keane, Lenhart, Newman, Parker, B. Ryan, Smith, Wilson, referred to Highways and Transportation.
HB 561, introduced by Bitney, referred to Energy and Telecommunications.
HB 563, introduced by Laszloffy, Stapleton, referred to Finance and Claims.
HB 572, introduced by Lewis, Branae, referred to Education and Cultural Resources.
HB 573, introduced by Parker, Dowell, Galvin-Halcro, Harris, referred to Education and Cultural Resources.
HB 578, introduced by Shockley, referred to Judiciary.
HB 579, introduced by Shockley, referred to Judiciary.
HB 585, introduced by Franklin, referred to Public Health, Welfare and Safety.
HB 591, introduced by Fuchs, referred to Highways and Transportation.
HB 597, introduced by Wagman, referred to Finance and Claims.
HB 601, introduced by Ripley, Ballantyne, Becker, Bergren, Bitney, Bixby, Branae, Brueggeman, Buzzas, Callahan, Carney, E. Clark, Cohenour, Everett, Fisher, Franklin, Gallik, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Haines, Harris, Hurwitz, Keane, Lake, Laslovich, Laszloffy, Lehman, Lenhart, Lewis, Morgan, Musgrove, A. Olson, Parker, Pattison, Peterson, Raser, Rice, Roberts, B. Ryan, Schrupf, Sinrud, Smith, Stoker, Witt, referred to State Administration.
HB 608, introduced by Windy Boy, Ballantyne, Bergren, Bixby, Callahan, P. Clark, Cyr, Dickenson, Dowell, Forrester, Franklin, Hansen, Jacobson, Jayne, Jent, Juneau, Lambert, Musgrove, Newman, Pease, Raser, Roush, Small-Eastman, Smith, Wanzenried, Weiss, referred to Finance and Claims.
HB 615, introduced by Franklin, Becker, Erickson, Gutsche, Kaufmann, referred to Judiciary.
HB 618, introduced by Dickenson, Callahan, Hurwitz, Small-Eastman, Windy Boy, referred to Judiciary.
HB 619, introduced by Maedje, Bergren, Bookout-Reinicke, Brueggeman, Curtiss, Fuchs, Haines, Jackson, Lake, Lambert, Lange, B. Olson, Pattison, Peterson, Rice, Ripley, Sinrud, Steinbeisser, Stoker, B. Thomas, Witt, referred to Finance and Claims.
HB 627, introduced by Lindeen, referred to Taxation.
HB 636, introduced by Forrester, Bohlinger, Cromley, A. Olson, referred to Finance and Claims.
HB 639, introduced by Laslovich, referred to Education and Cultural Resources.
HB 644, introduced by Rice, Andersen, Barrett, Hurwitz, Lehman, Mendenhall, Ripley, Rome, Steinbeisser, Wagman, referred to Agriculture, Livestock and Irrigation.
HB 647, introduced by B. Thomas, referred to Public Health, Welfare and Safety.
HB 653, introduced by Lambert, Lange, B. Olson, Peterson, Witt, referred to Agriculture, Livestock and Irrigation.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 19, introduced by Raser, referred to Public Health, Welfare and Safety.
HJR 21, introduced by Morgan, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Mangan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading,

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recommend as follows:

Senator Harrington present at this time.

Senator Keenan excused at this time.

SB 421 - Senator Grimes moved **SB 421** do pass. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 44

Nays: Bales, Butcher, Cocchiarella, Nelson, Story.

Total 5

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

Senator Keenan present at this time.

SB 271 - Senator Stapleton moved **SB 271** do pass. Motion carried unanimously.

Senator Ellingson excused at this time.

SB 335 - Senator Laible explained that the co-op was unable to meet the criteria as promised. Therefore, Senator Laible moved **SB 335** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

SB 350 - Senator Grimes moved **SB 350**, second reading copy, be amended as follows :

1. Page 5, line 4.

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Following: "agency."

Insert: "Upon any remand, the time limits established for environmental review in 75-1-208 are applicable from the date of the order for the level of environmental review ordered by the court."

2. Page 5, line 6.

Following: "court"

Insert: "unless the court or an agency finds a violation of an environmental standard imposed by statute or agency rule"

Amendment **adopted** with Senator Toole voting nay.

SB 350 - Senator Grimes moved **SB 350**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Zook, Mr. President.

Total 39

Nays: Bohlinger, Cocchiarella, Cooney, Harrington, Johnson, Mangan, Schmidt, Toole, Tropila, Wheat.

Total 10

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

Senator Ellingson present at this time.

SB 360 - Senator F. Thomas moved **SB 360** do pass. Motion carried unanimously.

Sensors Bohlinger, Stapleton, Tester and Keenan excused at this time.

SB 423 - Senator Cobb moved **SB 423**, second reading copy, be amended as follows :

1. Page 2, line 21 through line 24.

Strike: subsection (6) in its entirety

2. Page 3, line 10.

Strike: "(1)"

3. Page 3, line 12.

Strike: "(a)"

Insert: "(1)"

Renumber: subsequent subsections

4. Page 3, line 17.

Strike: "(1)(b)"

Insert: "(2)"

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5. Page 3, line 21.

Strike: "(1)(b) and (1)(c)"

Insert: "(2) and (3)"

6. Page 4, line 2.

Strike: "(1)(b) through (1)(h)"

Insert: "(2) through (8)"

7. Page 4, lines 7 through 10.

Strike: subsection (2) in its entirety

Amendment **adopted** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Toole, Tropila, Wheat.

Total 28

Nays: Anderson, Bales, Barkus, Black, Butcher, DePratu, Esp, Glaser, Grimes, Mahlum, McGee, O'Neil, Perry, Sprague, Tash, Taylor, Thomas, Zook.

Total 18

Absent or not voting: None.

Total 0

Excused: Bohlinger, Stapleton, Tester, Mr. President.

Total 4

Senators Keenan, Stapleton and Tester present at this time.

SB 423 - Senator Cooney moved **SB 423**, second reading copy, be further amended as follows :

1. Title, page 1, lines 7 through 8.

Strike: "INCREASING" on line 7 through "CONTRIBUTOR;" on line 8

2. Page 3, line 14.

Strike: "\$50"

Insert: "\$35"

3. Page 3, line 29.

Strike: "\$50"

Insert: "\$35"

Amendment **not** adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

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Nays: Anderson, Bales, Barkus, Black, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Bohlinger.
Total 1

Senator Bohlinger present at this time.

SB 423 - Senator Black moved **SB 423**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 30

Nays: Bohlinger, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 431 - Senator Elliott moved **SB 431**, second reading copy, be amended as follows :

1. Page 2, following line 25.

Insert: "(3) The money in the Montana heritage preservation and development account established in 22-3-1004 and any other funds intended for the management, maintenance, or operation of properties acquired under this part may not be used to address management, maintenance, operation, or fiscal deficiencies of the system of state parks identified in Title 23, chapter 1, as they existed on [the effective date of this act]."

Renumber: subsequent subsection

2. Page 2, line 28.

Following: line 27

Insert: "(5) As used in this section, "flagship park" means a park that contains natural, cultural, and recreational resources of statewide or national significance, that offers multiple activities for visitors, that draws visitors from beyond the immediate area, and that is an important element in Montana's tourism economy."

Amendment **adopted** unanimously.

Senator Tester excused at this time.

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SB 431 - Senator Elliott moved **SB 431**, as amended, do pass. Motion **passed** as follows:

Yeas: Barkus, Bohlinger, Butcher, Cobb, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Harrington, Johnson, Laible, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Sprague, Stapleton, Stonington, Tash, Toole, Tropila, Wheat, Zook.

Total 30

Nays: Anderson, Bales, Black, Cocchiarella, Curtiss, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Mahlum, McNutt, Ryan, Shea, Squires, Story, Taylor, Thomas, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: Tester.

Total 1

Senator Tester present at this time.

SB 432 - Senator Grimes moved **SB 432** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Butcher, O'Neil, Ryan, Story.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 16 - Senator Sprague moved **SJR 16** be adopted. Motion carried unanimously.

SJR 22 - Senator McGee moved **SJR 22** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 35

Nays: Cooney, Ellingson, Hansen, Harrington, Nelson, Pease, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 14

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Absent or not voting: Elliott.
Total 1

Excused: None.
Total 0

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Mangan moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 6:00 p.m. Motion carried.

Senate recessed at 4:55 p.m.
Senate reconvened at 6:05 p.m.

Roll call. All members present. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 3

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McNutt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 390 - Senator Mangan moved **SB 390** do pass. Motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Elliott, Gebhardt, Hansen, Harrington, Mangan, Nelson, Pease, Roush, Shea, Sprague, Squires, Tester, Tropila, Wheat.
Total 16

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Ryan, Schmidt, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Zook, Mr. President.
Total 34

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 390 - Senator Mangan moved **SB 390** be **indefinitely postponed**. Motion **passed** as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 48

Nays: Cobb, Tropila.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 362 - Senator Grimes moved **SB 362** do pass. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Kitzenberg, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Roush, Schmidt, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Wheat, Zook, Mr. President.
Total 33

Nays: Bales, Cobb, Cocchiarella, Cromley, Gebhardt, Harrington, Johnson, Laible, McCarthy, Nelson, Pease, Ryan, Shea, Sprague, Squires, Tester, Tropila.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 409 - Senator Stapleton moved **SB 409** do pass. Motion carried unanimously.

SJR 21 - Senator Cocchiarella moved **SJR 21** be adopted. Motion carried unanimously.

SB 381 - Senator Keenan moved **SB 381** do pass. Motion carried unanimously.

SB 411 - Senator Wheat moved **SB 411**, second reading copy, be amended as follows :

1. Page 1, line 23.

Insert: "(4) In providing for this basic system of free quality public education, the legislature further recognizes that, as articulated by the Montana supreme court in Helena Elementary School District No. 1 v. State, 236 Mont. 44, 769 P.2d 684 (1989), minimum accreditation standards do not fully define a quality education, that the Montana school accreditation standards are minimum standards upon which a quality education must be built, and that Montana school accreditation standards do not fully define either the constitutional rights of students or the constitutional responsibilities of the state of Montana for funding its public elementary and secondary schools."

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Amendment **not** adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 411 - Senator Cooney moved **SB 411**, second reading copy, be amended as follows :

1. Title, line 5 through line 6.

Strike: "DEFINING" on line 5 through "SCHOOLS";" on line 6

2. Title, line 7.

Following: "OF"

Insert: ""QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS" AND"

3. Title, line 9 through line 10.

Strike: "AMENDING" on line 9 through "MCA;" on line 10

4. Page 1, line 24 through page 4, line 11.

Strike: section 2 in its entirety

Renumber: subsequent sections

5. Page 4, line 14.

Strike: "definition"

Insert: "definitions"

Following: "of"

Insert: ""quality public elementary and secondary schools" and"

6. Page 4, line 16.

Following: "defining"

Insert: ""quality public elementary and secondary schools" and"

Amendment **not** adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes,

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Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 411 - Senator Glaser moved **SB 411** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Wheat.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 452 - Senator Taylor moved **SB 452** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Stapleton, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 35

Nays: Cocchiarella, Ellingson, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Ryan, Schmidt, Squires, Stonington, Toole, Wheat.

Total 14

Absent or not voting: None.

Total 0

Excused: Shea.

Total 1

SB 447 - Senator Grimes moved **SB 447** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

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Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 455 - Senator Cooney moved **SB 455** do pass. Motion carried unanimously.

SB 394 - Senator Perry moved **SB 394** do pass. After discussion, Senator Thomas made a **substitute motion** that consideration of **SB 394** be passed for the day. Motion carried.

SJR 20 - Senator Mahlum moved **SJR 20** be adopted. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 41

Nays: Bales, Butcher, Esp, Laible, McGee, Story, Tash, Taylor, Mr. President.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 24 - Senator O'Neil moved **SJR 24** be adopted. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McNutt moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 421 - Senator Zook moved **SB 421** be taken from third reading and rereferred to the committee on Finance and Claims. Motion carried.

SB 439 - Senator Zook moved **SB 439** be taken from third reading and rereferred to the committee on Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 26, 2003

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Thursday, February 27, 2003. Motion carried.

Senate adjourned at 9:03 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FORTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
February 27, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Butcher, excused. Quorum present.

The presiding officer has authenticated the daily journal for the forty-third legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 465, SB 466.**

Correctly engrossed: **SB 341, SB 350, SB 359, SB 370, SB 391, SB 402, SB 415, SB 422, SB 423, SB 430, SB 431, SB 441, SB 442, SB 449, SB 450, SB 451, SB 458.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/26/2003

HB 370, introduced by Noennig
HB 437, introduced by A. Olson
HB 465, introduced by P. Clark
HB 493, introduced by Branae
HB 574, introduced by Lehman
HB 584, introduced by Barrett
HB 621, introduced by Sinrud
HB 631, introduced by Lake
HB 637, introduced by Raser
HB 684, introduced by A. Olson

House joint resolution passed and transmitted to the Senate for concurrence:

2/26/2003

HJR 24, introduced by D. Brown

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 467, introduced by Elliott, P. Clark, referred to Taxation.

SB 468, introduced by Harrington, Cyr, Erickson, referred to Taxation.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 8:35 a.m. this day, for purpose of party caucuses. Motion carried.

Senate recessed at 8:08 a.m.
Senate reconvened at 8:40 a.m.

Roll call. All members present. Quorum present

MOTIONS

SB 436 - Senator Shea moved **SB 436** be taken from the second reading board and rereferred to the committee on Finance and Claims. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Cooney, Toole.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 412 - Senator Toole moved **SB 412** be taken from the table in the Fish and Game committee, printed and placed on second reading. Motion **failed** as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 18

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 32

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading,

recommend as follows:

SB 394 - Senator O'Neil moved **SB 394**, second reading copy, be amended as follows :

1. Title, page 1, line 7.

Strike: "MOST"

Insert: "CERTAIN"

2. Page 1, line 14.

Following: "allowable."

Insert: "(1)"

3. Page 1, line 16.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections

4. Page 1, line 25.

Following: "and"

Insert: "and"

5. Page 1, line 26.

Strike: subsection (9) in its entirety

Renumber: subsequent subsection

6. Page 1.

Following: line 28

Insert: "(2) If the action for which costs are awarded under subsection (1) is decided in a district court or an appellate court, the party to whom costs are awarded is also entitled to reasonable attorney fees as determined by the court."

Amendment **failed** on a voice vote.

SB 394 - Senator Perry moved **SB 394** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, Perry, Roush, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 32

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, O'Neil, Pease, Ryan, Schmidt, Squires, Tester, Toole, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 448 - Senator Nelson moved **SB 448** do pass. After discussion, Senator Nelson made a **substitute motion** that consideration of **SB 448** be passed for the day. Motion carried unanimously.

SJR 26 - Senator Bohlinger moved **SJR 26** be adopted. Motion carried unanimously.

SB 456 - Senator Esp moved **SB 456** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 41

Nays: Cooney, Ellingson, Grimes, Mahlum, Schmidt, Tash, Tester, Toole.

Total 8

Absent or not voting: Cobb.

Total 1

Excused: None.

Total 0

SB 314 - Senator McCarthy moved **SB 314** do pass. Motion carried with Senator McGee voting nay.

SB 277 - Senator Curtiss moved **SB 277** do pass. Motion carried unanimously.

Senator McCarthy excused at this time.

SB 392 - Senator Bales moved **SB 392** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Harrington, Kitzenberg, Mangan, Pease, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 20

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

Senator McCarthy present at this time.

SB 349 - Senator Anderson moved **SB 349** do pass. Motion carried unanimously.

SB 386 - Senator Gebhardt moved **SB 386** do pass. Motion carried unanimously.

SB 387 - Senator Cobb moved **SB 387** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy,

McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Gebhardt, Stapleton.
Total 2

Absent or not voting: Perry.
Total 1

Excused: None.
Total 0

Senator Perry excused at this time.

SJR 25 - Senator Bohlinger moved **SJR 25** be adopted. Motion carried with Senator Butcher voting nay.

Senator Thomas moved items 1 through 5 of agenda number 1 be moved to the bottom of the second reading board.
Motion carried.

SB 441 - Senator D. Ryan moved **SB 441**, second reading copy, be amended as follows :

1. Page 4, line 20.
Following: "district"
Insert: "under 20 U.S.C. 7003(b)"

2. Page 4, line 21.
Strike: "7003(b)"
Insert: "7003(d) and 20 U.S.C. 7707"

Amendment **adopted** unanimously.

Senator Stonington excused at this time.

SB 441 - Senator D. Ryan moved **SB 441**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 45

Nays: Gebhardt, Laible, Mr. President.
Total 3

Absent or not voting: None.
Total 0

Excused: Perry, Stonington.
Total 2

Senator Stonington present at this time.

SJR 27 - Senator Johnson moved consideration of **SJR 27** be placed below SB 341 on agenda number 2. Motion carried unanimously.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/27/2003

HB 127, introduced by Fritz
HB 289, introduced by Newman
HB 302, introduced by Lewis
HB 431, introduced by Lawson
HB 467, introduced by Barrett
HB 468, introduced by Gillan
HB 481, introduced by Lewis
HB 482, introduced by Forrester
HB 509, introduced by A. Olson
HB 518, introduced by Lindeen
HB 523, introduced by Balyeat
HB 540, introduced by Gallik
HB 542, introduced by Franklin
HB 564, introduced by Lindeen
HB 571, introduced by Parker
HB 583, introduced by R. Brown
HB 588, introduced by Matthews
HB 609, introduced by Windy Boy
HB 640, introduced by Haines
HB 648, introduced by Younkin
HB 667, introduced by Harris
HB 669, introduced by Younkin
HB 679, introduced by Steinbeisser
HB 681, introduced by E. Clark
HB 689, introduced by A. Olson
HB 693, introduced by Sinrud
HB 700, introduced by Brueggeman
HB 703, introduced by Parker
HB 710, introduced by Raser
HB 711, introduced by Gallus
HB 719, introduced by A. Olson

House joint resolution passed and transmitted to the Senate for concurrence:

2/27/2003

HJR 30, introduced by Windy Boy

MESSAGES FROM THE GOVERNOR

February 26, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 7** sponsored by Senator Butcher on February 26, 2003.

Sincerely,

JUDY MARTZ
Governor

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 370, introduced by Noennig, Bohlinger, Wanzenried, referred to Natural Resources.

HB 437, introduced by A. Olson, DePratu, Forrester, Fuchs, Gallus, Gebhardt, Keane, Matthews, McCarthy, Ross, D. Ryan, Tash, referred to Natural Resources.

HB 465, introduced by P. Clark, Balyeat, Barrett, Esp, Fuchs, Golie, Rice, Sales, Shockley, Tester, Wanzenried, referred to Fish and Game.

HB 493, introduced by Branae, referred to Public Health, Welfare and Safety.

HB 574, introduced by Lehman, referred to Natural Resources.

HB 584, introduced by Barrett, Brueggeman, Grimes, Gutsche, Stonington, referred to Natural Resources.

HB 621, introduced by Sinrud, Barkus, Brueggeman, Cooney, Laible, Lindeen (by request of the House Joint Appropriations Subcommittee on General Government and Transportation), referred to State Administration.

HB 631, introduced by Lake, Mahlum, McNutt, referred to Finance and Claims.

HB 637, introduced by Raser, referred to Energy and Telecommunications.

HB 684, introduced by A. Olson, referred to Natural Resources.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 24, introduced by D. Brown (by request of the House State Administration Standing Committee), referred to State Administration.

MOTIONS

SB 448 - Senator Nelson moved **SB 448** be taken from second reading and rereferred to the committee on Finance and Claims. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 37 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt,

Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cobb, Ellingson, Gebhardt, Sprague.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 239 passed as follows:

Yeas: Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Anderson, Barkus, Butcher, Laible, O'Neil.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 271 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 347 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee,

McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Gebhardt, Hansen, Tester.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 360 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Zook, Mr. President.
Total 46

Nays: Mangan, Story, Tropila, Wheat.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 366 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 41

Nays: Bohlinger, Cooney, Ellingson, Hansen, Johnson, Pease, Schmidt, Squires, Toole.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 405 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Shea, Sprague,

Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 34

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Johnson, Mangan, Nelson, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Wheat.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 410 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Schmidt, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 30

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Pease, Roush, Ryan, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 432 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Butcher, Gebhardt, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 7 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan,

McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 16 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 22 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 35

Nays: Cooney, Ellingson, Elliott, Hansen, Harrington, Nelson, Pease, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. President Keenan in the chair.

We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senators Black and Stapleton excused at this time.

SB 450 - Senator Cocchiarella moved **SB 450** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 41

Nays: Cromley, Ellingson, Harrington, Squires, Tester, Toole, Wheat.

Total 7

Absent or not voting: None.

Total 0

Excused: Black, Stapleton.

Total 2

Senator Cobb excused at this time.

SB 341 - Senator Grimes moved **SB 341** do pass. Motion carried unanimously.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Keenan moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 1:00 p.m. this legislative day. Motion carried.

Senate recessed at 11:56 a.m.

Senate reconvened at 1:00 p.m.

Roll call. All members present except Senators Grimes and Stonington, excused. Quorum present.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 1:40 p.m. this legislative day for purpose of party caucuses. Motion carried.

Senate recessed at 1:05 p.m.

Senate reconvened at 1:45 p.m.

Roll call. All members present. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 3

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Cobb excused at this time.

SJR 27 - Senator Johnson moved **SJR 27** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Cobb.

Total 1

SB 359 - Senator Cromley moved **SB 359** do pass. After discussion, Senator Cromley made a **substitute motion** that **SB 359** be moved below SB 415 on the second reading board for purpose of amendment preparation. Motion carried.

SB 370 - Senator Gebhardt moved **SB 370** do pass. Motion carried unanimously.

Senator Cobb present at this time.

Senator Bales excused at this time.

SB 391 - Senator Mangan moved **SB 391** do pass. Motion carried as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 36

Nays: Barkus, Black, Butcher, Curtiss, DePratu, Esp, Glaser, Laible, McGee, O'Neil, Tash, Zook, Mr. President.

Total 13

Absent or not voting: None.

Total 0

Excused: Bales.

Total 1

Senator Bales present at this time.

SB 402 - Senator Cocchiarella moved **SB 402** do pass. Motion carried with Senators O'Neil and Stapleton voting nay.

SB 415 - Senator F. Thomas moved **SB 415** do pass. Motion carried unanimously.

SB 359 - Senator Cromley moved consideration of **SB 359** be placed below SB 330 on the second reading board. Motion carried.

Senator Butcher excused at this time.

SB 428, requiring 2/3 of entire Legislature - Senator Esp moved **SB 428** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 20

Absent or not voting: None.

Total 0

Excused: Butcher.

Total 1

Senator Butcher present at this time.

SB 429 - Senator Esp moved **SB 429** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 430 - Senator Ellingson moved **SB 430** do pass. Motion carried unanimously.

SB 444 - Senator Tester moved **SB 444** do pass. Motion carried unanimously.

SB 395 - Senator Toole moved **SB 395**, second reading copy, be amended as follows :

1. Title, line 4.

Strike: "HUNTING"

Insert: "SHOOTING"

2. Page 1, line 16.

Strike: "hunting"

Insert: "shooting"

3. Page 1, line 19.

Strike: "hunt"

Insert: "shoot"

4. Page 1, line 25.

Strike: "hunt"

Insert: "shoot"

5. Page 2, line 2.

Strike: "hunting"

Insert: "shooting"

6. Page 2, line 17.

Strike: "hunts"

Insert: "shooting"

7. Page 3, line 28.

Strike: "hunting"

Insert: "shooting"

8. Page 4, line 8.

Strike: "hunting"

Insert: "shooting"

9. Page 4, line 23.

Strike: "hunting"

Insert: "shooting"

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Ellingson, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Wheat, Mr. President.

Total 18

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook.

Total 32

Absent or not voting: None.

Total 0

Excused: None.
Total 0

SB 395 - Senator Perry moved **SB 395** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Zook, Mr. President.
Total 39

Nays: Cooney, Ellingson, Elliott, Harrington, Mangan, McCarthy, Nelson, Pease, Toole, Tropila, Wheat.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 451 - Senator Esp moved **SB 451** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, Nelson, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, O'Neil, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 350 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Zook, Mr. President.
Total 35

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Harrington, Johnson, McCarthy, Ryan, Schmidt,

Squires, Toole, Tropila, Wheat.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 362 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, O'Neil, Perry, Roush, Schmidt, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Wheat, Zook, Mr. President.
Total 34

Nays: Bales, Cobb, Cocchiarella, Cromley, Gebhardt, Harrington, McCarthy, McNutt, Nelson, Pease, Ryan, Shea, Sprague, Squires, Tester, Tropila.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 381 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 409 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 411 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Wheat.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 423 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 30

Nays: Bohlinger, Cocchiarella, Cooney, Ellingson, Hansen, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 431 passed as follows:

Yeas: Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Harrington, Johnson, Laible, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Squires, Stonington, Toole, Tropila, Wheat, Zook.

Total 26

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Mahlum, McNutt, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Tester, Thomas, Mr. President.

Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 447 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 452 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 36

Nays: Cocchiarella, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Ryan, Schmidt, Shea, Squires, Toole, Wheat.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 455 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 20 adopted as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Bales, Esp, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 21 adopted as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Black, Butcher, McGee, O'Neil, Stapleton.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 24 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Butcher, Stapleton, Story.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

SB 392 - Senator Bales moved **SB 392** be taken from third reading and placed on second reading this legislative day, in the second position on the board. Motion carried.

SB 391 - Senator Zook moved **SB 391** be taken from third reading and referred to the committee on Finance and Claims. Motion carried.

Senator Thomas moved the 5 education bills, **SB 323, SB 424, SB 454, SB 267, and SB 303**, be taken from second reading and rereferred to the Finance and Claims committee. Motion carried.

SB 359 - Senator Thomas moved **SB 359** be placed at the top of the second reading board. Motion carried.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Session 4

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 359 - Senator Cromley moved **SB 359**, second reading copy, be amended as follows :

1. Title, page 1, line 7.

Strike: "COMMERCIAL"

Insert: "UNPROCESSED"

2. Page 1, line 20.

Strike: "OR"

3. Page 1, line 21.

Strike: "COMMERCIAL"

Following: "PRODUCTS"

Insert: "; or

(d) commercial transport that complies with federal regulation"

Amendment **adopted** with Senator O'Neil voting nay.

SB 359 - Senator Cromley moved **SB 359**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan,

McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 392 - Senator Bales moved **SB 392**, second reading copy, be amended as follows :

1. Title, line 10.
Following: "THAN LAND"
Insert: "AGREED UPON BY THE LANDOWNER OR"

2. Page 2, line 26.
Following: "than land"
Insert: "voluntarily subjected to a management plan by the landowner or"

3. Page 4, line 8.
Following: "than land"
Insert: "voluntarily subjected to a management plan by the landowner or"

Amendment **adopted** unanimously.

Senator Harrington excused at this time.

SB 392 - Senator Bales moved **SB 392**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Zook, Mr. President.
Total 32

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Kitzenberg, McCarthy, Pease, Ryan, Schmidt, Shea, Sprague, Squires, Toole, Tropila, Wheat.
Total 17

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

SB 330 - Senator Mangan opened on **SB 330** and then moved **SB 330**, second reading copy, be amended as follows:

1. Page 1, line 26.
Following: "account the"

Insert: "statewide"

Following: "procurement."

Insert: "The commission may not take into account purely local economic benefits that are associated with the electricity supply procurement."

Amendment **adopted** unanimously.

SB 330 - Senator Mangan moved **SB 330**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Story, Tash, Taylor, Tropila, Wheat, Zook.
Total 35

Nays: Bohlinger, Ellingson, Esp, Harrington, Johnson, Laible, McGee, McNutt, Perry, Stapleton, Stonington, Tester, Thomas, Toole, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Harrington present at this time.

SB 46 - Senator Gebhardt moved **SB 46** do pass. Motion carried as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Taylor, Tester, Toole, Tropila, Wheat, Zook.
Total 35

Nays: Anderson, Barkus, DePratu, Glaser, Grimes, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Tash, Thomas, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 375 - Senator Elliott moved **SB 375** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Cooney, Glaser, Johnson, Laible, Nelson, O'Neil, Ryan.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 422 - Senator Black moved **SB 422** do pass. Motion carried as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 34

Nays: Anderson, Barkus, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Glaser, Grimes, Harrington, Johnson, O'Neil, Shea, Squires, Story, Thomas.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 442 - Senator Stonington moved **SB 442** do pass. Motion carried as follows:

Yeas: Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tester, Thomas, Toole, Tropila, Wheat.
Total 35

Nays: Anderson, Barkus, Butcher, Curtiss, Esp, Gebhardt, Johnson, Laible, McGee, O'Neil, Story, Tash, Taylor, Zook, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 272 - Senator Toole moved **SB 272** do pass. Motion **failed** as follows:

Yeas: Butcher, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 272 - Senator F. Thomas moved **SB 272** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 33

Nays: Cocchiarella, Cooney, Ellingson, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Stapleton excused at this time.

SB 449 - Senator Cooney moved **SB 449** do pass. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 44

Nays: Bales, Curtiss, Johnson, McGee, Mr. President.

Total 5

Absent or not voting: None.

Total 0

Excused: Stapleton.

Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Friday, February 28, 2003. Motion carried.

Senate adjourned at 7:03 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FORTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
February 28, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the forty-fourth legislative day.

MOTIONS

SB 451 - Senator Esp moved **SB 451** be taken from third reading and rereferred to the committee on Finance and Claims. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 30

Nays: Cooney, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 127, introduced by Fritz (by request of the Department of Administration), referred to Judiciary.

HB 289, introduced by Newman, Parker, referred to Judiciary.

HB 302, introduced by Lewis, Ballantyne, Barrett, Becker, Bixby, Branae, Brueggeman, Callahan, Carney, P. Clark, Cocchiarella, Cohenour, Cyr, Devlin, Dowell, Ellingson, Elliott, Erickson, Facey, Forrester, Gallik, Gallus, Gibson, Gillan, Golie, Grimes, Harrington, Hawks, Hedges, Jacobson, Jent, Juneau, Kasten, Kaufmann, Keane, Kitzenberg, Lange, Laslovich, Lawson, Lehman, Lenhart, Lindeen, Mangan, Matthews, McGee, McKenney, McNutt, Mood, Nelson, Newman, Noennig, A. Olson, B. Olson, Pease, Peterson, Raser, Ripley, Rome, Ross, Roush, B. Ryan, D. Ryan, Schrupf, Shea, Shockley, Small-Eastman, Smith, Sprague, Steinbeisser, B. Thomas, Toole, Tropila, Tropila, Wanzenried, Witt., referred to Education and Cultural Resources.

HB 431, introduced by Lawson, referred to State Administration.

HB 467, introduced by Barrett, Anderson, Curtiss, Mendenhall, A. Olson, Peterson, Tash, referred to Natural Resources.

HB 468, introduced by Gillan, Branae, Cooney, Ellingson, Erickson, Fuchs, Gibson, Mahlum, Nelson, Schmidt, referred to State Administration.

HB 481, introduced by Lewis, E. Clark, referred to Finance and Claims.

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HB 482, introduced by Forrester, Glaser, referred to Business and Labor.

HB 509, introduced by A. Olson, Dowell, Forrester, Gebhardt, Gillan, Golie, Laslovich, Mahlum, Mangan, Matthews, McCarthy, McNutt, Shea, Witt, referred to Energy and Telecommunications.

HB 518, introduced by Lindeen, Barkus, Brueggeman, Cooney, Laible, Sinrud (by request of the House Joint Appropriations Subcommittee on General Government and Transportation), referred to State Administration.

HB 523, introduced by Balyeat, Bookout-Reinicke, Everett, Harris, Hurwitz, Kaufmann, Lake, Rice, Schrumpf, Sinrud, Wagman, Waitschies, referred to State Administration.

HB 540, introduced by Gallik, Cohenour, Harris, Jayne, Jent, Juneau, Laslovich, Parker, referred to Judiciary.

HB 542, introduced by Franklin, Becker, Brueggeman, Cooney, Fritz, Gillan, Keenan, Kitzenberg, Lewis, Mood, Roberts, D. Ryan, Squires, Stapleton, Tester, Wanzenried, referred to Public Health, Welfare and Safety.

HB 564, introduced by Lindeen, Ballantyne, Becker, Bergren, Black, Branae, R. Brown, Brueggeman, Buzzas, Callahan, Cocchiarella, Cohenour, Cyr, DePratu, Dickenson, Dowell, Facey, Franklin, Gibson, Gillan, Golie, Johnson, Juneau, Kaufmann, Keane, Keenan, Laslovich, Laszloffy, Mahlum, Mangan, Matthews, McKenney, Mood, Musgrove, Newman, Pattison, Raser, Ripley, Sinrud, Story, Tester, F. Thomas, Wanzenried, Weiss, Wilson, referred to Finance and Claims.

HB 571, introduced by Parker, Gallik, Harris, Keane, B. Ryan, referred to Energy and Telecommunications.

HB 583, introduced by R. Brown, referred to Local Government.

HB 588, introduced by Matthews, referred to Business and Labor.

HB 609, introduced by Windy Boy, Ballantyne, Becker, Bergren, Bixby, Callahan, P. Clark, Cyr, Dickenson, Dowell, Franklin, Fritz, Gillan, Hansen, Hedges, Jacobson, Jayne, Jent, Juneau, Lambert, Laslovich, Musgrove, Newman, Pease, Raser, Roush, Small-Eastman, Smith, Wanzenried, Weiss, referred to State Administration.

HB 640, introduced by Haines, referred to Local Government.

HB 648, introduced by Younkin, referred to Public Health, Welfare and Safety.

HB 667, introduced by Harris, Branae, Callahan, Cohenour, Cyr, Dowell, Erickson, Forrester, Fritz, Gallik, Gallus, Gibson, Gutsche, Jacobson, Jent, Laslovich, Lenhart, Mood, Raser, B. Ryan, Smith, Wanzenried, Weiss, Wilson, Windy Boy, referred to Taxation.

HB 669, introduced by Younkin, referred to Natural Resources.

HB 679, introduced by Steinbeisser, referred to Finance and Claims.

HB 681, introduced by E. Clark, referred to Public Health, Welfare and Safety.

HB 689, introduced by A. Olson, Brueggeman, referred to State Administration.

HB 693, introduced by Sinrud, referred to Public Health, Welfare and Safety.

HB 700, introduced by Brueggeman, Laible, McCarthy, A. Olson, Shea, Tash, referred to Natural Resources.

HB 703, introduced by Parker, Harris, referred to Public Health, Welfare and Safety.

HB 710, introduced by Raser, referred to Energy and Telecommunications.

HB 711, introduced by Gallus, referred to Highways and Transportation.

HB 719, introduced by A. Olson, Brueggeman, Forrester, Gallus, Gebhardt, Keenan, Mangan, Mood, Ripley, Shea, Sinrud, F. Thomas, Wilson, Witt, Younkin, referred to State Administration.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 30, introduced by Windy Boy, Bergren, Callahan, P. Clark, Cyr, Dickenson, Dowell, Erickson, Fritz, Gibson, Golie, Hansen, Jacobson, Jayne, Jent, Juneau, Keenan, Pease, Raser, Roush, Small-Eastman, Wanzenried, referred to State Administration.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 46 passed as follows:

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Yeas: Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Taylor, Tester, Toole, Tropila, Wheat, Zook.

Total 36

Nays: Anderson, Barkus, DePratu, Glaser, Grimes, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Tash, Thomas, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 277 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 42

Nays: Cooney, Ellingson, Harrington, Mangan, McCarthy, Ryan, Tester, Toole.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 314 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Butcher, Esp, Glaser, McGee, O'Neil.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 330 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Cocchiarella, Cooney, Cromley, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Story, Tash, Taylor, Tropila, Wheat, Zook.

Total 34

Nays: Bohlinger, Butcher, Cobb, Curtiss, Ellingson, Johnson, Laible, McGee, McNutt, Perry, Stapleton, Stonington, Tester, Thomas, Toole, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 341 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 349 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Hansen, Roush, Tester.

Total 3

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 359 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Curtiss, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 370 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 375 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Cobb, Ellingson, Esp, Gebhardt, McGee, O'Neil, Story.
Total 7

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 386 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 42

Nays: Cooney, Ellingson, Harrington, Squires, Stonington, Tester, Toole, Wheat.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 387 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Gebhardt, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 392 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Zook.
Total 34

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Kitzenberg, Mahlum, Pease, Schmidt, Sprague, Toole, Tropila, Wheat, Mr. President.

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Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 394 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 30

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, O'Neil, Pease, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Wheat.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 395 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Zook, Mr. President.

Total 35

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Schmidt, Squires, Toole, Tropila, Wheat.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 402 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

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Nays: O'Neil, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 415 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Wheat, Zook, Mr. President.
Total 48

Nays: Tester, Tropila.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 422 passed as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Hansen, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, Pease, Perry, Roush, Shea, Sprague, Stapleton, Stonington, Taylor, Tester, Toole, Tropila.
Total 29

Nays: Anderson, Barkus, Cobb, Curtiss, DePratu, Glaser, Grimes, Harrington, Johnson, Mangan, McCarthy, O'Neil, Ryan, Schmidt, Squires, Story, Tash, Thomas, Wheat, Zook, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 428 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Taylor, Thomas, Zook, Mr. President.
Total 27

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Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Tester, Toole, Tropila, Wheat.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 429 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 430 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 441 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.

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Total 47

Nays: Laible, Taylor, Mr. President.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 442 passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 40

Nays: Anderson, Butcher, Cobb, Curtiss, Esp, Kitzenberg, Laible, McGee, O'Neil, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 444 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 449 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy,

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McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.
Total 45

Nays: Bales, Curtiss, McGee, Zook, Mr. President.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 450 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Zook, Mr. President.
Total 41

Nays: Cromley, Ellingson, Esp, Harrington, McGee, Nelson, Squires, Tester, Wheat.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 456 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 42

Nays: Ellingson, Gebhardt, Grimes, Mahlum, Pease, Schmidt, Tash, Toole.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SJR 25 adopted as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Black, Butcher, Curtiss, Stapleton.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 26 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 27 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Cromley.

Total 1

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

MOTIONS

SB 46 - Senator Ryan moved he be allowed to change his vote on **SB 46**, third reading, from nay to yea. Motion carried.

SB 46 - Senator DePratu moved he be allowed to change his vote on **SB 46**, third reading, from yea to nay. Motion carried.

SB 450 - Senator Tester moved he be allowed to change his vote on **SB 450**, third reading, from yea to nay. Motion carried.

SB 429 - Senator Tash moved he be allowed to change his vote on **SB 429**, third reading, from nay to yea. Motion carried.

SB 46 - Senator O'Neil moved he be allowed to change his vote on **SB 46**, third reading, from yea to nay. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans, and thanked them for their superior service through this hectic transmittal week.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, March 5, 2003. Motion carried.

Senate adjourned at 8:49 a.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FORTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
March 5, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Schmidt, excused. Quorum present.

The presiding officer has authenticated the daily journal for the forty-fifth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 467, SB 468.**

Correctly engrossed: **SB 330, SB 359, SB 392.**

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

3/5/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 2:00 p.m., Friday, February 28, 2003:

TITLE

NAME

Pages:

Taylor Moorman,
Marcus Thomas,
Bryan Hansen,
Amber King,
Angela Lemire,
Jenna Cederberg,
Jedediah Cox,
Stephanie Young,

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Wednesday, March 5, 2003:

TITLE

NAME

SPONSOR

Pages:

Kristina Gaul, Helena, MT
Blake Hauptman, Drummond, MT
Jill Knudson, Harlowton, MT
Koren Bras, Lonepine, MT
Kristy Mihelic, Anaconda, MT
Mac Kirk, Frenchtown, MT
Christina Bortnem, Gt. Falls, MT
Carlie Widhalm, Butte, MT

Senator Thomas
Senator Zook
Senator Esp
Senator Elliott
Senator McCarthy
Senator Mahlum
Senator Tropila
Senator Harrington

Report Adopted.

SENATE JOURNAL
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MESSAGES FROM THE GOVERNOR

February 28, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 136** sponsored by Senator Butcher on February 28, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/28/2003

HB 141, introduced by Lange
HB 205, introduced by Franklin
HB 241, introduced by Shockley
HB 352, introduced by Laszloffy
HB 486, introduced by Kaufmann
HB 494, introduced by Wilson
HB 517, introduced by Wilson
HB 524, introduced by Mendenhall
HB 545, introduced by Haines
HB 553, introduced by Gallik
HB 598, introduced by Sales
HB 599, introduced by Sales
HB 610, introduced by Bergren
HB 617, introduced by Mendenhall
HB 630, introduced by A. Olson
HB 635, introduced by Forrester
HB 641, introduced by Haines
HB 649, introduced by P. Clark
HB 656, introduced by Bitney
HB 659, introduced by Kaufmann
HB 660, introduced by Buzzas
HB 661, introduced by Barrett
HB 673, introduced by Peterson
HB 675, introduced by Juneau
HB 676, introduced by Lindeen
HB 677, introduced by Lindeen

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HB 678, introduced by Lindeen
HB 680, introduced by Noennig
HB 683, introduced by Brueggeman
HB 686, introduced by Bergren
HB 695, introduced by R. Brown
HB 709, introduced by Harris
HB 712, introduced by Sinrud
HB 720, introduced by Hurwitz
HB 731, introduced by Lehman
HB 733, introduced by Schrumpf
HB 734, introduced by Lawson

House joint resolutions passed and transmitted to the Senate for concurrence:

2/28/2003

HJR 25, introduced by Juneau
HJR 26, introduced by Younkin
HJR 28, introduced by Lange
HJR 29, introduced by Gallus
HJR 31, introduced by Facey
HJR 32, introduced by Haines

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 469, introduced by Elliott, referred to Taxation.

The following House bill was introduced, read first time, and referred to committee:

HB 683, introduced by Brueggeman, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 87 - Senator Cobb moved **HB 87** be concurred in. Motion carried unanimously.

HB 150 - Senator Tropila moved consideration of **HB 150** be passed for the day due to the absence of Senator Schmidt. Motion carried.

HB 321 - Senator Esp moved **HB 321** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted.

SENATE JOURNAL
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ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, March 6, 2003. Motion carried.

Senate adjourned at 1:21 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FORTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
March 6, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Ryan and Shea, excused. Quorum present.

The presiding officer has authenticated the daily journal for the forty-sixth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 469**.

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):	3/6/2003
HB 364 , be concurred in. Report adopted.	
HJR 18 , be concurred in. Report adopted.	

BUSINESS AND LABOR (Mahlum, Chairman):	3/6/2003
HB 36 , be concurred in. Report adopted.	
HB 45 , be concurred in. Report adopted.	
HB 65 , be concurred in. Report adopted.	

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):	3/6/2003
HB 366 , be concurred in. Report adopted.	

JUDICIARY (Grimes, Chairman):	3/6/2003
HB 18 , be concurred in. Report adopted.	
HB 77 , be concurred in. Report adopted.	

STATE ADMINISTRATION (Cobb, Chairman):	3/6/2003
HB 194 , be concurred in. Report adopted.	
HB 353 , be concurred in. Report adopted.	
HB 601 , be concurred in. Report adopted.	
HJR 22 , be adopted. Report adopted.	

MESSAGES FROM THE GOVERNOR

March 5, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

SENATE JOURNAL
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Please be informed that I have signed **Senate Bill 164** sponsored by Senator Mangan and **Senate Bill 195** sponsored by Senator Grimes et al. on March 5, 2003.

Sincerely,

JUDY MARTZ
Governor

MOTIONS

HB 563 - Senator Zook moved **HB 563** be taken from the Finance and Claims committee and rereferred to the committee on State Administration. Motion carried.

SB 296 - Senator Taylor moved **SB 296** be taken from the table in the State Administration committee and rereferred to the committee on Taxation. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Keenan in the chair.

We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 150 - Senator Schmidt moved **HB 150** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Keenan moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 87 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Butcher, DePratu.

Total 2

Absent or not voting: None.

Total 0

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Excused: Ryan, Shea.
Total 2

HB 321, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Sprague, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 41

Nays: Cooney, Ellingson, Mangan, Schmidt, Squires, Stapleton, Toole.
Total 7

Absent or not voting: None.
Total 0

Excused: Ryan, Shea.
Total 2

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, March 7, 2003. Motion carried.

Senate adjourned at 1:34 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FORTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
March 7, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Butcher and Glaser, excused. Quorum present.

The presiding officer has authenticated the daily journal for the forty-seventh legislative day.

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman):

3/7/2003

HB 49, be concurred in. Report adopted.

HB 50, be amended as follows:

1. Title, page 1, line 6.

Following: "ACT;"

Insert: "REDEFINING THE TERM "BOTTLED WATER" TO CONFORM TO FEDERAL LAW;"

2. Page 1, lines 23 and 24.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

3. Page 1, line 29 through page 2, line 1.

Following: "means" on page 1, line 29

Strike: remainder of line 29 through "consumption" on page 2, line 1

Insert: "water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients, except that it may optionally contain safe and suitable antimicrobial agents"

And, as amended, be concurred in. Report adopted.

HB 72, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

3/6/2003

HB 392, be concurred in. Report adopted.

HJR 16, be adopted. Report adopted.

FISH AND GAME (Sprague, Chairman):

3/7/2003

HB 101, be concurred in. Report adopted.

HB 137, be concurred in. Report adopted.

HB 187, be concurred in. Report adopted.

HB 411, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

3/7/2003

HB 471, be concurred in. Report adopted.

HB 636, be concurred in. Report adopted.

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LOCAL GOVERNMENT (Bohlinger, Chairman):
HB 142, be amended as follows:

3/6/2003

1. Page 1, line 15.
Strike: "other"
Following: "government,"
Insert: "other"

And, as amended, be concurred in. Report adopted.

HB 408, be concurred in. Report adopted.

HB 511, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

February 27, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Re: House Bill 79

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 79, "**AN ACT PROVIDING THAT AN INDIVIDUAL OR A NONPROFIT ORGANIZATION IS NOT LIABLE FOR CIVIL DAMAGES RESULTING FROM THE INDIVIDUAL'S OR ORGANIZATION'S PLACEMENT OF A SIGN OR MARKER WARNING OF A HAZARD IN WATER LEGALLY ACCESSIBLE TO THE PUBLIC; PROVIDING CRITERIA FOR THE PLACEMENT OF THE SIGNS OR MARKERS; AND REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO INFORM THE PUBLIC OF THE PLACEMENT, USE, AND SIGNIFICANCE OF WATER HAZARD SIGNS AND MARKERS**" for the following reasons.

House Bill 79 is pre-empted by federal law. Federal law preempts state law in regard to aids to maritime navigation without first obtaining authority to do so from the federal government. See, 14 U.S.C.S. Sec. 83 (2003); see also, 33 CFR Sec. 66.01. Currently, there exist numerous federally designated waterways in the state of Montana under the jurisdiction of the United States Coast Guard. House Bill 79 fails to address these federally designated waterways. Moreover, House Bill 79 will give an erroneous belief that it is legal to establish "white plastic milk bottle" buoys in federally designated waterways.

I recommend an amendment to House Bill 79 that addresses the jurisdictional concerns that specify that the provisions of this section apply only to the waters of this state that have been determined to be navigable for purposes of federal

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jurisdiction.

House Bill 79 to include an effective date. I also recommend that this bill be amended to have an effective date on passage and approval.

I have enclosed my amendments to that effect. Please be advised that Representative Jackson, the sponsor of the bill, has been informed of my recommendations and has no objections.

Sincerely,

JUDY MARTZ
Governor

**GOVERNOR'S AMENDMENTS
TO HOUSE BILL 79**

1. Title, line 7.

Following: "WATER"

Insert: "THAT IS UNDER THE JURISDICTION OF THE STATE AND THAT IS"

2. Title, line 8.

Following: "MARKERS;"

Strike: "AND"

3. Title, line 9.

Following: "MARKERS"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 2, line 5.

Insert: "(3) The provisions of this section apply only to the waters of this state that have not been determined to be navigable for purposes of federal jurisdiction over navigation aids."

5. Page 2, line 9.

Insert: "NEW SECTION. Section 3. {standard} Effective date. [This act] is effective on passage and approval."

February 27, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

RE: House Bill 311

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In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with an amendment House Bill 311, "AN ACT INCLUDING EGGNOG IN THE DEFINITION OF "CLASS 1 MILK" INSTEAD OF IN THE DEFINITION OF CLASS II MILK TO CORRELATE WITH FEDERAL STANDARDS; REQUIRING THE DEPARTMENT OF LIVESTOCK TO ASSESS A FEE FOR ALL CLASSES OF MILK SOLD BY A PERSON LICENSED BY THE DEPARTMENT TO BE USED FOR THE ADMINISTRATION OF THE MILK INSPECTION AND MILK DIAGNOSTIC LABORATORY FUNCTIONS OF THE DEPARTMENT; PROVIDING THAT THE FEE MUST BE ESTABLISHED COMMENSURATE WITH COSTS OF THE PROGRAM; REQUIRING LICENSEES TO REPORT TO THE DEPARTMENT ON A MONTHLY BASIS THE VOLUME OF MILK PRODUCED, AMENDING SECTIONS 81-23-101 AND 81-23-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, for the following reason.

House Bill 311 to include an effective date of July 1, 2003. I recommend that House Bill 311 be amended to have an effective date of July 1, 2003. This bill has a current effective date on passage and approval, and if stands, will create a revenue shortfall for the last quarter of FY 03 in the Department of Livestock, Milk Control Bureau. Currently, fees are collected for the Department of Livestock after production and reporting--consequently, a FY quarter in arrears. An effective date of July 1, 2003 allows time for necessary rule changes to take place and allows time for a FY 04 (July 1, 2003) implementation date. This will assure that current revenue income and operation will not be interrupted.

I have enclosed my amendment to that effect. Please be advised that Representative Stoker, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

**GOVERNOR'S AMENDMENTS
TO HOUSE BILL 311**

1. Title, line 11.

Strike: "IMMEDIATE"

2. Page 4, line 11.

Strike: "on passage and approval"

Insert: "July 1, 2003"

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/6/2003

HB 60, introduced by McKenney

HB 176, introduced by Pattison

MOTIONS

HB 640 - Senator Mahlum moved **HB 640** be taken from the committee on Local Government and rereferred to the committee on Business and Labor. Motion carried.

HB 186 - Senator Mahlum moved **HB 186** be taken from the committee on Business and Labor and rereferred to the committee on Highways and Transportation. Motion carried.

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HB 384 - Senator Mahlum moved **HB 384** be taken from the committee on Business and Labor and rereferred to the committee on Public Health, Welfare and Safety. Motion carried.

HB 501 - Senator Mahlum moved **HB 501** be taken from the committee on Business and Labor and rereferred to the committee on Public Health, Welfare and Safety. Motion carried.

HB 539 - Senator Mahlum moved **HB 539** be taken from the committee on Business and Labor and rereferred to the committee on Taxation. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 470, introduced by Mangan, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 60, introduced by McKenney (by request of the Board of Public Education), referred to Finance and Claims.

HB 141, introduced by Lange, referred to Judiciary.

HB 176, introduced by Pattison (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 205, introduced by Franklin (by request of the State Auditor), referred to Public Health, Welfare and Safety.

HB 241, introduced by Shockley, referred to Fish and Game.

HB 352, introduced by Laszloffy, P. Clark, Lange, Mood, Wagman, referred to Fish and Game.

HB 486, introduced by Kaufmann, Gutsche, Haines, Harris, Jacobson, Roberts, referred to Fish and Game.

HB 494, introduced by Wilson, Younkin, referred to Public Health, Welfare and Safety.

HB 517, introduced by Wilson, referred to Taxation.

HB 524, introduced by Mendenhall, Grimes, referred to Public Health, Welfare and Safety.

HB 545, introduced by Haines, referred to Natural Resources.

HB 553, introduced by Gallik, Ballantyne, Becker, Branae, Buzzas, Callahan, Carney, Cohenour, Cooney, Cyr, Dowell, Ellingson, Erickson, Facey, Fritz, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Harrington, Harris, Jacobson, Jent, Keane, Laslovich, Lawson, Mendenhall, Musgrove, Pease, Raser, D. Ryan, Schmidt, Small-Eastman, Tester, Toole, Wanzenried, Weiss, Wilson, referred to Agriculture, Livestock and Irrigation.

HB 598, introduced by Sales (by request of the House Fish, Wildlife, and Parks Standing Committee), referred to Fish and Game.

HB 599, introduced by Sales, referred to State Administration.

HB 610, introduced by Bergren, Nelson, Roush, referred to Local Government.

HB 617, introduced by Mendenhall, Grimes, referred to Natural Resources.

HB 630, introduced by A. Olson, Brueggeman, Lawson, Ripley, Rome, D. Ryan, Wilson, referred to Education and Cultural Resources.

HB 635, introduced by Forrester, Bohlinger, Cromley, A. Olson, referred to Local Government.

HB 641, introduced by Haines, referred to Energy and Telecommunications.

HB 649, introduced by P. Clark, referred to Fish and Game.

HB 656, introduced by Bitney, referred to Education and Cultural Resources.

HB 659, introduced by Kaufmann, Becker, Small-Eastman, referred to Finance and Claims.

HB 660, introduced by Buzzas, Branae, Carney, Cohenour, Cooney, Ellingson, Facey, Franklin, Gallik, Gallus, Galvin-Halcro, Gibson, Grimes, Haines, Harris, Hedges, Keane, Keenan, Kitzenberg, Lawson, Lenhart, Lewis, Mood, Newman, Parker, Shockley, Smith, Squires, Story, Tester, B. Thomas, Wilson, Witt, referred to Finance and Claims.

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HB 661, introduced by Barrett, referred to Fish and Game.

HB 673, introduced by Peterson, Brueggeman, Devlin, Hurwitz, Lake, Malcolm, A. Olson, Rice, Steinbeisser, Witt, referred to Natural Resources.

HB 675, introduced by Juneau, referred to Energy and Telecommunications.

HB 676, introduced by Lindeen, referred to Natural Resources.

HB 677, introduced by Lindeen, referred to Natural Resources.

HB 678, introduced by Lindeen, referred to Natural Resources.

HB 680, introduced by Noennig, referred to State Administration.

HB 686, introduced by Bergren, Keane, Lawson, B. Ryan, Weiss, referred to State Administration.

HB 695, introduced by R. Brown, Andersen, Barrett, Brueggeman, E. Clark, Everett, Fisher, Fuchs, Haines, Hedges, Hurwitz, Jackson, Mendenhall, Mood, Pattison, Ripley, Roberts, Rome, Schrumpf, referred to Public Health, Welfare and Safety.

HB 709, introduced by Harris, referred to Natural Resources.

HB 712, introduced by Sinrud, Barkus, Forrester, Haines, Laible, Pattison, referred to Natural Resources.

HB 720, introduced by Hurwitz, Barrett, Rice, Ripley, referred to Agriculture, Livestock and Irrigation.

HB 731, introduced by Lehman (by request of the House State Administration Standing Committee), referred to State Administration.

HB 733, introduced by Schrumpf, Brueggeman, Everett, Fuchs, Haines, Hedges, Lake, Morgan, Sinrud, referred to Judiciary.

HB 734, introduced by Lawson, referred to Public Health, Welfare and Safety.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 25, introduced by Juneau, Ballantyne, Bergren, Black, Callahan, E. Clark, Cobb, Dickenson, Franklin, Galvin-Halcro, Golie, Hansen, Kitzenberg, Lehman, McKenney, Musgrove, Parker, Ripley, Roush, B. Ryan, D. Ryan, Schmidt, Tester, Tropila, Wilson, Witt, referred to State Administration.

HJR 26, introduced by Younkin, R. Brown, Cooney, Cromley, Ellingson, Gillan, Glaser, Keenan, Mahlum, Mood, Schmidt, Squires, Stapleton, Tester, F. Thomas, Wanzenried, Wheat, referred to Energy and Telecommunications.

HJR 28, introduced by Lange, Haines, referred to State Administration.

HJR 29, introduced by Gallus, R. Brown, Buzzas, Cohenour, Cooney, Dowell, Franklin, Gutsche, Hansen, Harris, Lawson, Lindeen, Newman, Parker, Schmidt, Wanzenried, Wilson, referred to Public Health, Welfare and Safety.

HJR 31, introduced by Facey, referred to Public Health, Welfare and Safety.

HJR 32, introduced by Haines, Andersen, Balyeat, Barrett, Bookout-Reinicke, E. Clark, Devlin, Everett, Fisher, Fuchs, Hedges, Hurwitz, Jackson, Lake, Lambert, Lange, Laszloffy, Lehman, Lewis, Maedje, Mendenhall, Mood, Morgan, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Sales, Schrumpf, Sinrud, Steinbeisser, Stoker, B. Thomas, Wagman, Witt, referred to Fish and Game.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Mahlum in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senators Butcher and Glaser present at this time.

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HB 18 - Senator Wheat moved **HB 18** be concurred in. After discussion, Senator Grimes moved consideration of **HB 18** be passed for the day.

HB 36 - Senator Anderson moved **HB 36** be concurred in. Motion carried unanimously.

HB 45 - Senator Esp moved **HB 45** be concurred in. Motion carried unanimously.

HB 65 - Senator D. Ryan moved **HB 65** be concurred in. Motion carried unanimously.

HB 77 - Senator Wheat moved **HB 77** be concurred in. Motion carried unanimously.

HB 194 - Senator Cobb moved **HB 194** be concurred in. Motion carried unanimously.

HB 353 - Senator McGee moved **HB 353** be concurred in. Motion carried unanimously.

HB 364 - Senator Nelson moved **HB 364** be concurred in. Motion carried unanimously.

HB 366 - Senator Glaser moved **HB 366** be concurred in. Motion carried unanimously.

HB 601 - Senator Sprague moved **HB 601** be concurred in. Motion carried unanimously.

HJR 18 - Senator McNutt moved **HJR 18** be concurred in. Motion carried unanimously.

HJR 22 - Senator Sprague moved **HJR 22** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Mahlum moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

HB 150 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans, and thanked them for their work through the week.

MOTIONS

HB 154 - Senator Glaser moved that rule 30-70, sub. 2 be suspended for the day for the purpose of allowing Representative Shockley to act as sponsor of HB 154 for Representative Lenhart, who is in the hospital. The bill is scheduled to be heard this day in the Committee on Education. Motion carried.

Senator Thomas moved to suspend joint rule 40-50 to allow the late drafting and introduction of a bill dealing with emergency rules for budget reduction. Motion carried.

HB 18 - Senator Zook moved **HB 18** be taken from second reading and rereferred to the committee on Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 7:45 a.m., Saturday, March 8, 2003. Motion carried.

Senate adjourned at 2:39 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FORTY-NINTH LEGISLATIVE DAY**

Helena, Montana
March 8, 2003

Senate Chambers
State Capitol

Senate convened at 7:45 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Squires, and Tropila, excused. Quorum present.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/7/2003

HB 19, introduced by Kasten
HB 160, introduced by Haines
HB 391, introduced by Balyeat
HB 429, introduced by Kasten
HB 554, introduced by Kasten
HB 616, introduced by Younkin

Senate amendments to House bills concurred in:

3/7/2003

HB 29, introduced by A. Olson
HB 59, introduced by Erickson
HB 94, introduced by Lawson

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 36 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 43

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.

Total 7

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HB 45 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 42

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

HB 65 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook.
Total 42

Nays: Mr. President.
Total 1

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

HB 77 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 43

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
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Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

HB 194 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 42

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

HB 353 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 42

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

HB 364 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wheat, Mr. President.
Total 40

Nays: Esp, Story, Zook.
Total 3

SENATE JOURNAL
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Absent or not voting: None.
Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

HB 366 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 43

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

HB 601 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 42

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

HJR 18 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 43

SENATE JOURNAL
FORTY-NINTH LEGISLATIVE DAY - MARCH 8, 2003

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

HJR 22 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 43

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Ellingson, Harrington, Schmidt, Shea, Sprague, Tropila.
Total 7

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, March 10, 2003. Motion carried.

Senate adjourned at 8:00 a.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTIETH LEGISLATIVE DAY**

Helena, Montana
March 10, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Cobb, excused. Quorum present.

The presiding officer has authenticated the daily journal for the forty-ninth legislative day.

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman): 3/7/2003
HB 325, be concurred in. Report adopted.
HB 378, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 3/10/2003
HB 135, be concurred in. Report adopted.
HB 154, be amended as follows:

1. Title, line 6.

Strike: "DEFINING THE TERM "RETIREMENT";"

2. Page 4, line 8 through line 10.

Strike: subsection (16) in its entirety

Renumber: subsequent subsections

And, as amended, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman): 3/10/2003
HB 156, be amended as follows:

1. Page 1, line 24.

Following: "FOUR"

Insert: "or more"

2. Page 1, line 25.

Strike: subsection (II) in its entirety

Renumber: subsequent subsections

3. Page 1, line 26.

Following: "PSYCHIATRIST"

Strike: " "

Insert: "or a"

Following: "PSYCHOLOGIST"

Strike: " "

Insert: "licensed by the state or a licensed clinical"

Following: "COUNSELOR"

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 10, 2003

Strike: " "
Following: "OR"
Insert: "a licensed clinical"
Following: "WORKER"
Strike: "LICENSED BY THE STATE"

4. Page 1, line 28.
Following: the first "THE"
Insert: "court finds that the"

And, as amended, be concurred in. Report adopted.

HB 210, be amended as follows:

1. Page 1, line 27.
Following: "voluntarily"
Insert: "may move to withdraw the plea. If the motion to withdraw is denied, the defendant"

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

3/10/2003

HB 287, be concurred in. Report adopted.
HB 326, be concurred in. Report adopted.
HB 427, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

3/10/2003

HB 56, be concurred in. Report adopted.
HJR 3, be concurred in. Report adopted.
HJR 9, be amended as follows:

1. Title, page 1, line 7.

Strike: "PRICE"
Insert: "COST"

2. Title, page 1, line 7 through line 8.

Following: "AFFORDABLE" on line 7
Strike: "TO" on line 7 through "EVERYONE" on line 8

3. Page 1, line 10.

Following: "risen"
Strike: "so high that"
Insert: "dramatically in recent years; and
WHEREAS,"

4. Page 1, line 16.

Strike: "price"
Insert: "cost"

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FIFTIETH LEGISLATIVE DAY - MARCH 10, 2003

5. Page 1, line 17.

Following: "affordable"

Strike: remainder of line 17 through "hardship"

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

3/10/2003

HB 198, be concurred in. Report adopted.

HB 305, be amended as follows:

1. Page 1, line 11.

Following: "election to"

Insert: "a full term to"

2. Page 1, line 12.

Following: "served in an"

Insert: "appointed or an elected capacity in an"

Following: "finish"

Strike: "another official's"

Insert: "the"

Following: "term"

Insert: "of the original incumbent"

And, as amended, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

3/10/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 12:00 noon, Saturday, March 8, 2003:

TITLE

NAME

Pages:

Kristina Gaul, Helena, MT
Blake Hauptman, Drummond, MT
Jill Knudson, Harlowton, MT
Koren Bras, Lonepine, MT
Kristy Mihelic, Anaconda, MT
Mac Kirk, Frenchtown, MT
Christina Bortnem, Gt. Falls, MT
Carlie Widhalm, Butte, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, March 10, 2003:

TITLE

NAME

SPONSOR

Pages:

Keren Harmon, Scobey, MT	Senator Kitzenberg
Tyler DePratu, Whitefish, MT	Senator DePratu
Shasta DePratu, Whitefish, MT	Senator DePratu
Jessica Patrick, Rudyard, MT	Senator Keenan

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FIFTIETH LEGISLATIVE DAY - MARCH 10, 2003

Halley Gallagher, Gt. Falls, MT	Senator Mangan
Roald Aageson, Hingham, MT	Senator Tester
Tyler Kirk, Frenchtown, MT	Senator Mahlum
Chase Suchy, Billings, MT	Senator Nelson
Kelly Brown, Whitefish, MT	Senator Curtiss

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/8/2003

HB 452, introduced by Raser
HB 479, introduced by Gillan
HB 624, introduced by Buzzas
HB 642, introduced by Devlin

Senate amendments to House bills concurred in: 3/8/2003

HB 106, introduced by Erickson
HB 116, introduced by Kaufmann
HB 128, introduced by Rice
HB 149, introduced by Hedges

Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

3/8/2003

HB 79, introduced by Jackson

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 19, introduced by Kasten, referred to Finance and Claims.
HB 160, introduced by Haines (by request of the Department of Justice and the Governor), referred to Finance and Claims.
HB 391, introduced by Balyeat, referred to Taxation.
HB 429, introduced by Kasten, DePratu, Devlin, Erickson, Forrester, Fuchs, Kaufmann, Pattison, Story, Zook, referred to Taxation.
HB 452, introduced by Raser, referred to Taxation.
HB 479, introduced by Gillan, Branae, Gibson, referred to Energy and Telecommunications.
HB 554, introduced by Kasten (by request of the House Joint Appropriations Subcommittee on Long Range Planning), referred to Finance and Claims.
HB 616, introduced by Younkin, referred to Taxation.
HB 624, introduced by Buzzas, referred to Finance and Claims.
HB 642, introduced by Devlin, Forrester, Gallus, Laszloffy, McNutt, Mendenhall, A. Olson, Ripley, Shea, Smith, Steinbeisser, F. Thomas, referred to Taxation.

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 10, 2003

MOTIONS

HB - 187 - Senator Thomas moved consideration of **HB 187** be moved to the top of the second reading board this day. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Shea in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

President Keenan assumed the chair.

HB 187 - Senator Shea moved **HB 187** be concurred in. Motion carried with Senator Butcher voting nay.

Senator Shea assumed the chair.

HB 50 - Senator Squires moved **HB 50** be concurred in. Motion carried unanimously.

HB 101 - Senator McGee moved **HB 101** be concurred in. Motion carried unanimously.

HB 142 - Senator Laible moved **HB 142** be concurred in. Motion carried unanimously.

HB 137 - Senator Bales moved **HB 137** be concurred in. Motion carried unanimously.

HB 392 - Senator Story moved **HB 392** be concurred in. Motion carried unanimously.

HB 408 - Senator Barkus moved **HB 408** be concurred in. Motion carried unanimously.

HB 411 - Senator Tash moved **HB 411** be concurred in. Motion carried with Senator McGee voting nay.

HB 471 - Senator Stapleton moved **HB 471** be concurred in. Motion carried unanimously.

HB 511 - Senator Esp moved **HB 511** be concurred in. Motion carried unanimously.

HB 636 - Senator Cromley moved **HB 636** be concurred in. Motion carried unanimously.

HJR 16 - Senator McCarthy moved **HJR 16** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Shea moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 10, 2003

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, March 11, 2003. Motion carried.

Senate adjourned at 2:18 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTY-FIRST LEGISLATIVE DAY**

Helena, Montana
March 11, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the fiftieth legislative day.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 470**.

Correctly engrossed: **HB 154, HB 156, HB 210, HB 305, HJR 9**.

Correctly enrolled: **SB 41, SB 42, SB 43**.

Examined by the sponsor and found to be correct: **SB 41, SB 42, SB 43**.

BUSINESS AND LABOR (Mahlum, Chairman):
HB 104, be amended as follows:

3/11/2003

1. Title, page 1, line 11.

Strike: "LARGE"

2. Page 1, line 22.

Following: "with"

Strike: "more than 50"

Insert: "at least 51"

3. Page 2, line 8.

Strike: "large"

4. Page 2, line 10.

Following: line 9

Insert: "(b) Rates for voluntary purchasing pool groups must be set pursuant to the provisions of 33-22-1809."

Renumber: subsequent subsection

And, as amended, be concurred in. Report adopted.

HB 110, be amended as follows:

1. Title, page 1, line 7.

Following: "VISIT;"

Insert: "PROVIDING THAT A WORKER IS NOT RESPONSIBLE FOR THE COST OF A SUBSEQUENT VISIT TO AN EMERGENCY DEPARTMENT FOR TREATMENT REQUESTED BY AN INSURER;"

2. Page 4.

Following: line 13

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FIFTY-FIRST LEGISLATIVE DAY - MARCH 11, 2003

Insert: "(c) A worker is not responsible for the cost of a subsequent visit pursuant to subsection (7)(a) if the visit is for treatment requested by an insurer."

And, as amended, be concurred in. Report adopted.

HB 117, be concurred in. Report adopted.

HB 403, be amended as follows:

1. Title, page 1, lines 4 and 5.

Following: "A" on line 4

Insert: "GENERAL"

Following: "CONTRACTOR" on line 4

Strike: remainder of line 4 through "EMPLOYER" on line 5

2. Page 1, lines 15 and 16.

Following: "a" on line 15

Insert: "general"

Following: "contractor" on line 15

Strike: remainder of line 15 through "employer" on line 16

3. Page 1, line 23.

Following: "If"

Strike: "there" through "and"

4. Page 1, line 24.

Following: "a"

Insert: "general"

Following: "the"

Strike: "contractor's"

Following: "workers"

Insert: "on the project"

5. Page 1, lines 26 and 27.

Following: "residents" on line 26

Strike: remainder of line 26 through the second "residents" on line 27

And, as amended, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

3/11/2003

HB 161, be amended as follows:

1. Page 1, line 14.

Following: "hearing"

Insert: ", unless a hearing is waived as provided in subsection (3),"

2. Page 1, line 16.

Following: "earlier"

Strike: ", unless the youth, upon advice of an attorney, waives the youth's right to a hearing"

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3. Page 2, line 17.

Following: the first "youth"

Strike: "signs a"

Insert: "acknowledges, either during the hearing or by written"

Following: "waiver"

Strike: "of the hearing that acknowledges"

Insert: ", upon advice of an attorney,"

And, as amended, be concurred in. Report adopted.

HB 166, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

3/11/2003

HB 89, be concurred in. Report adopted.

HB 144, be concurred in. Report adopted.

HB 292, be amended as follows:

1. Page 1, line 17 through line 18.

Following: "property" on line 17

Strike: "or" on line 17 through "funds" on line 18

Following: "\$10,000" on line 18

Insert: "or a conservation easement using public funds in an amount in excess of \$40,000"

2. Page 1, line 20.

Following: "A"

Insert: "disinterested"

3. Page 1, line 20 through line 21.

Following: "APPRAISER" on line 20

Strike: "AND" on line 20 through "APPRAISER" on line 21

And, as amended, be concurred in. Report adopted.

HB 428, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

3/11/2003

HB 542, be concurred in. Report adopted.

HJR 13, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

3/11/2003

HB 178, be concurred in. Report adopted.

HB 218, be amended as follows:

1. Title, page 1, line 6.

Following: "FEES"

Insert: ", PROVIDE A SAFETY REPORT, SUBMIT A SAFETY PLAN, POST A RECLAMATION BOND,"

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FIFTY-FIRST LEGISLATIVE DAY - MARCH 11, 2003

2. Title, page 1, line 8.

Following: "RESPONSE,"

Insert: "EQUIPMENT PURCHASE,"

3. Title, page 1, line 12.

Following: "AGENCIES"

Insert: "AND PERSONS"

4. Title, page 1, line 13.

Following: "MONTANA;"

Insert: "PROVIDING RESPONSIBILITIES FOR TRANSPORTERS;"

5. Title, page 1, line 14.

Following: "PERMITS;"

Insert: "REQUIRING INSPECTIONS;"

6. Title, page 1, line 21.

Following: "WASTE;"

Insert: "PROVIDING CERTAIN CONSTRAINTS ON TRANSPORT OF THE WASTE;"

7. Title, page 1, line 23.

Following: "PROVISIONS;"

Insert: "ASSIGNING LIABILITY;"

8. Title, page 1, line 24.

Strike: "AND"

Following: "PENALTY"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

9. Page 1, line 28.

Strike: "9"

Insert: "12"

10. Page 2, line 1.

Strike: "9"

Insert: "12"

Following: "to"

Insert: ": (1)"

11. Page 2, line 3.

Following: "railroad"

Insert: "; and

(2) ensure that in the event of an accident, spill, or other related emergency there will be sufficient indemnity, bond, or insurance to compensate for all damage to persons, property, or the environment"

12. Page 2, line 5.

Strike: "9"

Insert: "12"

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13. Page 2, line 23.

Following: "response,"

Insert: "equipment purchase,"

14. Page 2, line 25.

Strike: "6"

Insert: "7"

15. Page 2, line 30.

Following: "emergencies"

Strike: "; and"

Insert: ", if federal funding is insufficient for training;"

16. Page 3, line 2.

Following: "occurs"

Insert: ";

(d) to assist state and county officials in notification costs for residents along the transport route;

(e) to obtain protective clothing and gear needed for inspection or potential hazardous cleanup activities;

and

(f) to provide for a monitored pullout area for use by truck transporters hauling highly radioactive waste.

(3) Prior to rulemaking provided for under [section 10(3)], the disaster and emergency services division of the department of military affairs shall coordinate with the public service commission and the department of transportation to provide to an appropriate legislative interim committee prior to the 59th legislature a plan that prioritizes prospective disbursement of money in the account described in subsection (1)"

17. Page 3, line 3.

Insert: "NEW SECTION. Section 5. Responsibilities of transporter. (1) A transporter may not carry shipments of high-level radioactive waste or transuranic waste through the state without providing to the disaster and emergency services division in advance of shipment:

(a) a shipment description, including type of waste;

(b) a safety report, which must be forwarded to the department of transportation for truck shipments or the public service commission for rail shipments, and which must include:

(i) the specifications of casks being used to transport the radioactive waste, including how the casks have been tested and certified; and

(ii) proof of training by crew members for emergency situations, including accidents;

(c) a safety plan that includes:

(i) the intended route;

(ii) all safety precautions to be taken to prevent an accident; and

(iii) emergency plans for threats to safety;

(d) proof of insurance or an indemnity bond. If the transporter is covered by a federal insurance program for the transport of radioactive material, proof of coverage by that program is sufficient. If a federal insurance program does not cover the transporter, the transporter shall provide proof of a bond or indemnity insurance coverage for \$25 million. The department of transportation is responsible for insurance oversight in the event of an accident that results in radioactive material leaking or otherwise spilling.

(e) proof of a radiotelephone or other working, two-way voice communications device approved by the nuclear regulatory commission for the main transporter and for each escort vehicle.

(2) A transporter may not transport through the state any high-level radioactive waste or transuranic waste that is not properly sealed in a cask approved by the nuclear regulatory commission.

Renumber: subsequent sections

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 11, 2003

18. Page 3, line 10.

Following: "patrol"

Strike: "and"

Insert: ", "

Following: "commission"

Insert: ", and the boards of county commissioners in counties through which the radioactive waste will be transported, within the limits of information disclosure allowed by nuclear regulatory commission regulations. County commissioners may initiate a notification sign-up list for property owners along highways and rail corridors of the proposed transport route and maintain the list for use in notifying landowners of shipments of radioactive waste, within the extent permitted by federal regulations or required in an emergency. If a county compiles a list, an absentee landowner is responsible for providing counties with the name of any renter whose name must be included on the notification list"

19. Page 3, line 12.

Strike: "7"

Insert: "9"

20. Page 3, line 25.

Strike: "and is shipping"

21. Page 3, line 27.

Following: "owner of the waste"

Insert: "and to the transporter"

Following: "a"

Insert: "one-trip"

22. Page 4, line 6.

Insert: "(7) Fees under this section must be assessed regardless of ownership, and 61-3-321(5) and 61-10-127 do not apply."

23. Page 4, line 6.

Insert: "NEW SECTION. Section 8. Inspections. (1) In addition to inspections routinely conducted for rail carriers or motor vehicle carriers, the agency assigned to inspect a carrier transporting high-level radioactive waste must inspect at a minimum the following:

(a) levels of radiation on the surface of the device in which the waste is stored; and

(b) load safety of the rail cars or motor vehicles carrying the radioactive material.

(2) The agency assigned to inspect transport of high-level radioactive waste must also, prior to inspection, compile a report on the conditions that may affect the travel route for the immediately preceding 24-hour period and, if the weather may influence the safety of the transport, must obtain a weather report for the area through which the material is to be transported. If the information gathered under this subsection is not otherwise required to be provided to the owner and the transporter of the waste, the inspecting agency shall provide the information to the owner and the transporter."

Renumber: subsequent sections

24. Page 4, line 17.

Following: "division"

Insert: "for payment out of the account established in [section 4(1)] according to the priorities established in [section 4(3)]"

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 11, 2003

25. Page 4, line 18.

Insert: "(5) Transport by motor carrier of high-level radioactive waste and transuranic waste may be only over a federal-aid interstate highway and only during daylight hours, except in emergencies determined by the disaster and emergency services division, which shall work with local authorities to determine alternate routes."

26. Page 4, line 24.

Following: "waste."

Insert: "The plan must include but is not limited to:

- (a) coordination with the federal railroad administration on track and rolling stock inspections;
- (b) inspection and approval by a federally certified inspector no later than 1 week prior to shipment; and
- (c) a requirement that trains carrying radioactive waste or transuranic waste travel at no more than 40 miles an

hour.

27. Page 4, line 30.

Strike: "9"

Insert: "12"

28. Page 5, line 12.

Strike: "9"

Insert: "12"

29. Page 5, lines 16 through 17.

Strike: "8" on line 16

Insert: "10"

Strike: "\$10,000"

Insert: "\$100,000"

Following: "violation."

Insert: "In the case of an accidental spill of a cask containing transuranic waste or leakage of high-level radioactive waste, the penalty is in addition to any liability assessed under [section 12].

Strike: "public service commission" on lines 16 through 17

Insert: "department of transportation"

30. Page 5, line 18.

Insert: "NEW SECTION. Section 12. Liability. The transportation of high-level radioactive waste and transuranic waste through the state is considered an ultrahazardous activity and the owner shall be strictly liable for any damages to person, property, or the environment.

Renumber: subsequent sections

31. Page 5, line 19.

Strike: "9"

Insert: "12"

32. Page 5, line 21.

Strike: "9"

Insert: "12"

33. Page 5, line 22.

Insert: "NEW SECTION. Section 14. Severability. If a part of [this act] is invalid, all valid parts that are severable

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FIFTY-FIRST LEGISLATIVE DAY - MARCH 11, 2003

from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Insert: "NEW SECTION. **Section 15. Effective date.** [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

HB 450, be concurred in. Report adopted.

HJR 21, be concurred in. Report adopted.

MOTIONS

HB 676 - Senator Tash moved **HB 676** be taken from the committee on Natural Resources and rereferred to the committee on Agriculture, Livestock and Irrigation. Motion carried.

HB 677 - Senator Tash moved **HB 677** be taken from the committee on Natural Resources and rereferred to the committee on Agriculture, Livestock and Irrigation. Motion carried.

HB 678 - Senator Tash moved **HB 678** be taken from the committee on Natural Resources and rereferred to the committee on Agriculture, Livestock and Irrigation. Motion carried.

Senator McGee moved to suspend the rules for the late request and introduction of a joint resolution urging the United States Supreme Court to overturn the 9th Circuit Court of Appeals decision prohibiting the use of the phrase "under God" in the Pledge of Allegiance. Motion carried with Senators Ellingson and Toole voting nay.

HB 712 - Senator Bohlinger moved **HB 712** be taken from the committee on Natural Resources and rereferred to the committee on Local Government. Motion carried.

HB 648 - Senator O'Neil moved **HB 648** be taken from the committee on Public Health, Welfare and Safety and rereferred to the committee on Agriculture, Livestock and Irrigation. Motion carried.

HB 604 - Senator Bales moved his name be deleted as co-sponsor from **HB 604**. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Bohlinger in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 49 - Senator Cocchiarella moved **HB 49** do pass. Motion carried unanimously.

HB 56 - Senator Esp moved **HB 56**, second reading copy, be amended as follows:

1. Title, line 10.

Following: "CONDITIONS:"

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 11, 2003

Insert: "PROVIDING FOR LONGER EXTENSIONS OF COMMITMENTS TO THE MONTANA MENTAL HEALTH NURSING CARE CENTER;"

2. Page 4, line 8.

Following: "However"

Insert: "except as provided in subsection (4)"

3. Page 4, line 21.

Following: "However"

Insert: "except as provided in subsection (4)"

4. Page 4, line 24.

Following: line 23

Insert: "(4) Because of the age and inability of persons committed to the Montana mental health nursing care center to maintain themselves in their homes and communities as required by 53-21-411, an extension of a commitment pursuant to subsection (1)(d) may be for up to 1 year and an extension of a commitment pursuant to subsection (2) may be for up to 2 years."

Amendment **adopted** unanimously.

HB 56 - Senator Esp moved **HB 56**, as amended, be concurred in. Motion carried unanimously.

HB 72 - Senator Cocchiarella moved **HB 72** be concurred in. Motion carried unanimously.

HB 79 - Governor's Amendments - Senator Barkus moved Governor's amendments to **HB 79** be concurred in. Motion carried unanimously.

HB 135 - Senator D. Ryan moved **HB 135** be concurred in. Motion carried unanimously.

HB 198 - Senator Cobb moved **HB 198** be concurred in. Motion carried unanimously.

Senator Cobb excused at this time.

HB 287 - Senator Ellingson moved **HB 287** be concurred in. After discussion, Senator Ellingson made a **substitute motion** to pass consideration of **HB 287**. Motion carried.

Senator Cobb present at this time.

HB 325 - Senator Nelson moved **HB 325** be concurred in. Motion carried unanimously.

HB 326 - Senator McCarthy moved **HB 326** be concurred in. Motion carried unanimously.

HB 378 - Senator Pease moved **HB 378** be concurred in. Motion carried unanimously.

HB 427 - Senator Perry moved **HB 427** be concurred in. Motion carried with Senators Johnson, Mahlum and Thomas voting nay.

HJR 3 - Senator Schmidt moved **HJR 3** be concurred in. Motion carried unanimously.

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Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Bohlinger moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 50, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 101 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Butcher, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 137 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 142, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 187 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Butcher, Esp, Gebhardt, McGee, Stapleton, Story.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 392 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan,

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McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 408 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 411 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 43

Nays: Black, McGee, Roush, Ryan, Stapleton, Story, Taylor.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 471 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 511 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 636 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Esp, McGee, Nelson, Stapleton, Story.
Total 5

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HJR 16 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Bales, Esp, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, March 12, 2003. Motion carried.

Senate adjourned at 2:40 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTY-SECOND LEGISLATIVE DAY**

Helena, Montana
March 12, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the fifty-first legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Signed by the President at 1:30 p.m., March 11, 2003: **SB 41, SB 42, SB 43.**

Signed by the Secretary of the Senate at 1:45 p.m., March 11, 2003: **SB 41, SB 42, SB 43.**

Signed by the Speaker at 3:30 p.m., March 11, 2003: **SB 41, SB 42, SB 43.**

Delivered to the Governor for approval at 3:55 p.m., March 11, 2003: **SB 41, SB 42, SB 43.**

Correctly engrossed: **HB 56, HB 104, HB 110, HB 161, HB 218, HB 292, HB 403.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):

3/12/2003

HB 455, be concurred in. Report adopted.

HJR 15, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

3/12/2003

HB 562, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

3/12/2003

HB 152, be amended as follows:

1. Title, line 11.

Strike: "\$25"

Insert: "\$16"

2. Page 2, line 4.

Strike: "\$25"

Insert: "\$16"

And, as amended, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

3/12/2003

HB 71, be concurred in. Report adopted.

HB 105, be concurred in. Report adopted.

HB 215, be concurred in. Report adopted.

HB 250, be concurred in. Report adopted.

HB 280, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

3/11/2003

HB 134, be amended as follows:

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1. Page 2, line 20.

Following: "use"

Insert: "a portion of the"

2. Page 2, line 24.

Strike: "and"

3. Page 2, line 25.

Following: line 24

Insert: "(d) pay for the inmate's medical and dental expenses and costs of incarceration; and"

Renumber: subsequent subsection

4. Page 4, line 3.

Insert: "NEW SECTION. Section 5. Coordination instruction. If House Bill No. 453 and [section 2 of this act], amending 53-1-107, are both passed and approved, then the amendments to subsections (1) and (2) of 53-1-107 contained in House Bill No. 453 are void."

And, as amended, be concurred in. Report adopted.

HB 171, be amended as follows:

1. Title, line 7 through line 8.

Following: "DATE AND" on line 7

Strike: remainder of line 7 through "RETROACTIVE" on line 8

Insert: "AN"

2. Page 1, line 20.

Following: "judgment"

Strike: "is entered"

Insert: "becomes final"

3. Page 1, line 22.

Following: "substituted."

Insert: "A judgment becomes final for purposes of this subsection (2):

(a) when the time for appeal to the Montana supreme court expires;

(b) if an appeal is taken to the Montana supreme court, when the time for petitioning the United States supreme court for review expires; or

(c) if review is sought in the United States supreme court, on the date that that court issues its final order in the case."

4. Page 2, line 2 through line 4.

Strike: section 3 in its entirety

Insert: "NEW SECTION. Section 3. Applicability. [This act] applies to all offenders who plead guilty on or after [the effective date of this act]."

And, as amended, be concurred in. Report adopted.

HB 212, be concurred in. Report adopted.

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HB 299, be amended as follows:

1. Title, line 5.

Following: "NEGLIGENCE"

Strike: "AND INTENTIONAL MISCONDUCT"

Following: " ;"

Insert: "CLARIFYING THAT HERD DISTRICT LAW APPLIES TO TRESPASSING ANIMALS IN HERD DISTRICTS;"

2. Page 1, line 15 through line 16.

Following: "negligent" on line 15

Strike: remainder of line 15 through "misconduct" on line 16

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

3/11/2003

HB 264, be concurred in. Report adopted.

HB 333, be amended as follows:

1. Page 1, line 22 through line 23.

Following: "town"

Strike: " , " on line 22 through "fund , " on line 23

And, as amended, be concurred in. Report adopted.

MOTIONS

HB 218 - Senator Gebhardt moved **HB 218** be taken from second reading and rereferred to the committee on State Administration. Motion carried.

HB 287 - Senator Ellingson moved **HB 287** be taken from second reading and rereferred to the committee on Natural Resources. Motion carried.

Senator Tester excused at this time.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/11/2003

SB 10, introduced by Grimes

SB 17, introduced by McGee

SB 27, introduced by Johnson

SB 38, introduced by Mahlum

SB 40, introduced by Mahlum

SB 51, introduced by Bohlinger

Senate bill concurred in **as amended** and returned to the Senate for concurrence in House amendments:

3/11/2003

SB 47, introduced by Gebhardt

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Senate amendments to House bill concurred in: 3/11/2003

HB 321, introduced by Younkin

House bill passed and transmitted to the Senate for concurrence: 3/11/2003

HB 100, introduced by Jent

House joint resolution passed and transmitted to the Senate for concurrence: 3/11/2003

HJR 34, introduced by Balyeat

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 471, introduced by Bales, R. Brown, Forrester, Gallus, Keenan, Laszloffy, Mood, Pease, Shea, Stapleton, F. Thomas, referred to Taxation.

SB 472, introduced by F. Thomas, Bales, R. Brown, Forrester, Gallus, Keenan, Laszloffy, Mood, Pease, Shea, Stapleton, referred to Taxation.

SB 473, introduced by Elliott, Roberts, referred to Finance and Claims.

SB 474, introduced by F. Thomas, R. Brown, Brueggeman, Cocchiarella, Forrester, Gallus, Gillan, Golie, Keane, Keenan, Laszloffy, Mangan, McCarthy, Mood, Nelson, Pease, Roush, D. Ryan, Shea, Stapleton, referred to Finance and Claims.

The following House bill was introduced, read first time, and referred to committee:

HB 100, introduced by Jent (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 34, introduced by Balyeat, Andersen, R. Brown, Brueggeman, Curtiss, Devlin, Forrester, Fuchs, Gebhardt, Jackson, Keenan, Lake, Lewis, McGee, Mood, Perry, Ripley, Sales, Sinrud, Sprague, Stoker, F. Thomas, Tropila, Waitschies, Witt, Younkin, referred to Taxation.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 49 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: Tester.

Total 1

HB 72 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Tester.

Total 1

Senator Tester present at this time.

HB 79, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 135 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton,

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Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 198 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 325 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 326 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 378 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 45

Nays: Butcher, Curtiss, Gebhardt, McGee, Mr. President.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 427 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Bales, Butcher, Esp, Johnson, McGee.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HJR 3 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Butcher.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Harrington in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senators Cobb, McCarthy and Stonington excused at this time.

HB 117 - Senator Cocchiarella moved **HB 117** be concurred in. Motion carried as follows:

Yeas: Anderson, Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Story, Tash, Taylor, Toole, Tropila, Wheat, Zook.
Total 33

Nays: Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Johnson, Laible, McGee, Stapleton, Tester, Thomas, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: Cobb, McCarthy, Stonington.
Total 3

HB 154 - Senator Johnson moved **HB 154** be concurred in. Motion carried unanimously.

Senator Stonington present at this time.

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HB 156 - Senator Mangan moved **HB 156** be concurred in. Motion carried unanimously.

Senator McCarthy present at this time.

HB 166 - Senator Wheat moved **HB 166** be concurred in. Motion carried unanimously.

Senator Mangan excused at this time.

HB 210 - Senator McGee moved **HB 210** be concurred in. Motion carried unanimously.

HB 178 - Senator Wheat moved **HB 178** be concurred in. After discussion, Senator Wheat made a **substitute motion** to pass consideration for the day. Motion carried unanimously.

HB 305 - Senator Sprague moved **HB 305** be concurred in. Motion carried with Senator Cromley voting nay.

Senator Cobb present at this time.

HB 450 - Senator Shea moved **HB 450** be concurred in. Motion carried unanimously.

HB 542 - Senator Keenan moved **HB 542** be concurred in. Motion carried unanimously.

HJR 9 - Senator Pease moved **HJR 9** be concurred in. Motion carried unanimously.

HJR 13 - Senator Grimes moved **HJR 13** be concurred in. Motion carried unanimously.

HJR 21 - Senator Wheat moved consideration of **HJR 21** be passed for the day. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Harrington moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 474 - Senator Thomas moved he be allowed to delete Squires as sponsor to **SB 474**. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, March 13, 2003. Motion carried.

Senate adjourned at 2:58 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
March 14, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Senator Grimes. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Cromley, excused. Quorum present.

The presiding officer has authenticated the daily journal for the fifty-third legislative day.

MOTIONS

HB 264 - Senator Tropila moved he be allowed to change his vote on **HB 264**, second reading the fifty-third legislative day, from nay to yea. Motion carried.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **HB 76, HB 98, HB 170.**

Correctly enrolled: **SB 3, SB 10, SB 14, SB 17, SB 21, SB 27, SB 32, SB 33, SB 38, SB 40, SB 49, SB 51, SB 69.**

BUSINESS AND LABOR (Mahlum, Chairman):

3/14/2003

HB 172, be concurred in. Report adopted.

COMMITTEE ON COMMITTEES (Zook, Chairman):

3/13/2003

The Senate Committee on Committees has met and reappointed the following Senators to the Environmental Quality Council for a two year term:

Senator Walt McNutt
Senator Jon Tester
Senator Ken Toole
Senator Dan McGee
Senator Bob Story

The Committee appointed the following member to replace Senator McCarthy, who has served the maximum three terms.

Senator Glenn Roush

Report adopted.

JUDICIARY (Grimes, Chairman):

3/14/2003

HB 211, be amended as follows:

1. Title, lines 7 through 9.

Following: "MEMBERS;" on line 7

Strike: remainder of line 7 through "MONTANA;" on line 9

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2. Page 1, line 24 through line 26.

Following: "board." on line 24

Strike: remainder of line 24 through "MONTANA." on line 26

3. Page 6, line 10.

Following: "adopt rules"

Insert: "-- purpose for training"

Following: "rules."

Insert: "(1)"

4. Page 6, line 16.

Following: line 15

Insert: "(2) The legislature finds that American Indians incarcerated in state prisons constitute a disproportionate percentage of the total inmate population when compared to the American Indian population percentage of the total state population. The training of board members regarding American Indian culture and problems is necessary in order for the board to deal appropriately with American Indian inmates appearing before the board."

And, as amended, be concurred in. Report adopted.

HB 224, be concurred in. Report adopted.

HB 350, be amended as follows:

1. Title, line 5.

Following: "DRUGS"

Strike: ", "

Insert: "OR"

2. Title, line 5 through line 6.

Following: "PARAPHERNALIA" on line 5

Strike: remainder of line 5 through the first "DRUGS" on line 6

3. Page 1, line 30.

Following: "PARAPHERNALIA."

Insert: "or"

4. Page 2, line 1.

Strike: subsection (j) in its entirety

Renumber: subsequent subsection

And, as amended, be concurred in. Report adopted.

HB 402, be concurred in. Report adopted.

HB 478, be amended as follows:

1. Title, line 8 and 9.

Following: "PROVIDING" on line 8

Strike: remainder of line 8 through "AND" on line 9

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2. Page 3, line 22 through line 23.

Following: "61-5-217" on line 22

Strike: remainder of line 22 through "ISSUED" on line 23

3. Page 4, line 23.

Strike: section 3 in its entirety

Renumber: subsequent section

4. Page 4, line 26.

Following: "committed"

Insert: "on or"

And, as amended, be concurred in. Report adopted.

HB 578, be concurred in. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

3/13/2003

HB 339, be concurred in. Report adopted.

HB 520, be concurred in. Report adopted.

HB 583, be concurred in. Report adopted.

HB 635, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

3/13/2003

SB 460, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: "A RETROACTIVE"

Insert: "AN"

2. Page 1, line 19.

Strike: "and employee benefits"

Insert: ", including wages, salaries, and fringe benefits"

3. Page 1, line 20.

Following: "utility"

Insert: "and fuel"

4. Page 1, line 21.

Following: "(c)"

Insert: "costs of"

Strike: "and administrative services costs"

Insert: ", repairs, and supplies"

5. Page 1, line 23.

Following: "depreciation"

Insert: "computed on a straight-line basis with a 20-year life for buildings and improvements and a 7-year life for all other depreciable assets"

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6. Page 1.

Following: line 23

Insert: "(f) equipment and machinery rental;"

Renumber: subsequent subsections

7. Page 1, line 24.

Following: "(f)"

Insert: "costs of"

Following: "control"

Insert: ", "

Strike: "costs"

Insert: "environmental testing, and slag removal"

Strike: "and"

8. Page 1.

Following: line 24

Insert: "(h) costs incurred for training, freight, engineering services, insurance, and license fees directly attributable to smelting or refining;

(i) administrative services in Montana, including that portion of accounting, laboratory, purchasing, human resources, and warehouse allocable to smelting or refining; and"

Renumber: subsequent subsection

9. Page 1, line 26.

Following: "ore"

Insert: ", concentrate, dore, bullion, matte, or other form of processed concentrate"

10. Page 3, lines 8 and 9.

Strike: "Retroactive applicability" on line 8

Insert: "Applicability"

Strike: "retroactively" on line 8 through "1-2-109," on line 9

Strike: "2002" on line 9

Insert: "2003"

And, as amended, do pass. Report adopted.

HB 391, be concurred in. Report adopted.

HB 429, be concurred in. Report adopted.

HB 667, be amended as follows:

3/14/2003

1. Title, page 1, line 7.

Strike: "FRAUDULENT" through "PRACTICES AND"

2. Title, page 1, line 9.

Strike: "30-10-301,"

Following: "30-10-324"

Strike: ", "

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3. Page 1, line 13 through page 3, line 3.

Strike: section 1 in its entirety

Renumber: subsequent sections

4. Page 5, line 7 through line 8.

Strike: "PURPOSELY" on line 7 through "KNOWINGLY" on line 8

5. Page 5, line 9.

Following: "who"

Insert: "willfully"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/13/2003

SB 19, introduced by Grimes

SB 20, introduced by Grimes

SB 31, introduced by Cobb

SB 45, introduced by Gebhardt

SB 68, introduced by Cromley

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/13/2003

SB 75, introduced by Stapleton

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 475, introduced by Esp, Story, referred to Taxation.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 71 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

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Absent or not voting: None.
Total 0

Excused: Cromley.
Total 1

HB 89 concurred in as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 42

Nays: Barkus, Butcher, Esp, Hansen, Laible, McGee, O'Neil.
Total 7

Absent or not voting: None.
Total 0

Excused: Cromley.
Total 1

HB 104, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cromley.
Total 1

HB 110, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

SENATE JOURNAL
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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cromley.
Total 1

HB 144 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Curtiss, Hansen, Nelson, Stapleton.
Total 4

Absent or not voting: None.
Total 0

Excused: Cromley.
Total 1

HB 161, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cromley.
Total 1

HB 178 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Cromley.

Total 1

HB 212 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 42

Nays: Butcher, Gebhardt, McNutt, Perry, Stapleton, Zook, Mr. President.

Total 7

Absent or not voting: None.

Total 0

Excused: Cromley.

Total 1

HB 264 concurred in as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 43

Nays: Barkus, Butcher, Johnson, McGee, Stapleton, Mr. President.

Total 6

Absent or not voting: None.

Total 0

Excused: Cromley.

Total 1

HB 292, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy,

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 14, 2003

McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Toole.

Total 1

Absent or not voting: None.

Total 0

Excused: Cromley.

Total 1

HB 403, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 44

Nays: Esp, Johnson, Stapleton, Zook, Mr. President.

Total 5

Absent or not voting: None.

Total 0

Excused: Cromley.

Total 1

HJR 21 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Cromley.

Total 1

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 14, 2003

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Schmidt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 105 - Senator Cocchiarella moved **HB 105**, second reading copy, be amended as follows:

1. Page 5, line 1.

Following: "contest"

Insert: "on a highway as defined in 61-1-201"

2. Page 5, line 2.

Following: "street"

Insert: "on a highway as defined in 61-1-201"

Amendment **adopted** unanimously.

Senators Harrington, Kitzenberg and McCarthy excused at this time.

HB 105 - Senator Cocchiarella moved **HB 105**, as amended, be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Bohlinger, Butcher, Cocchiarella, Cooney, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Mangan, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Toole, Tropila, Wheat, Zook.
Total 26

Nays: Bales, Black, Cobb, Curtiss, Elliott, Esp, Hansen, Johnson, Laible, Mahlum, McGee, Nelson, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Mr. President.
Total 20

Absent or not voting: None.
Total 0

Excused: Cromley, Harrington, Kitzenberg, McCarthy.
Total 4

Senator Kitzenberg present at this time.

HB 428 - Senator Grimes moved **HB 428**, second reading copy, be amended as follows:

1. Page 3, line 5.

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 366 and [this act] are both passed and approved, then [this act] is void."

Renumber: subsequent sections

Amendment **adopted** unanimously.

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 14, 2003

Senator Harrington present at this time.

HB 428 - Senator Shea moved **HB 428**, as amended, be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 44

Nays: Bohlinger, Johnson, Story, Tropila.

Total 4

Absent or not voting: None.

Total 0

Excused: Cromley, McCarthy.

Total 2

Senator Cobb excused at this time.

HB 134 - Senator Mangan moved **HB 134** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Schmidt moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

HB 105 - Senator Thomas moved **HB 105** be taken from third reading and rereferred to the committee on Highways and Transportation. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, March 15, 2003. Motion carried.

Senate adjourned at 2:10 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
March 15, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Cobb and McCarthy, excused. Quorum present.

The presiding officer has authenticated the fifty-fourth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Examined by the sponsor and found to be correct: **SB 3, SB 10, SB 14, SB 17, SB 21, SB 27, SB 32, SB 33, SB 38, SB 40, SB 49, SB 51, SB 69.**

NATURAL RESOURCES (Tash, Chairman):

3/15/2003

HB 368, be concurred in. Report adopted.

HB 436, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/14/2003

SB 5, introduced by Tash

SB 16, introduced by Mangan

SB 55, introduced by Keenan

SB 64, introduced by Keenan

SB 71, introduced by Barkus

SB 88, introduced by Bales

SB 94, introduced by Stonington

SB 125, introduced by Tester

SB 144, introduced by Barkus

SB 151, introduced by Mahlum

Senate joint resolution concurred in and returned to the Senate:

3/15/2003

SJR 21, introduced by Cocchiarella

House bill passed and transmitted to the Senate for concurrence:

3/14/2003

HB 698, introduced by Gillan

Senate amendments to House bill concurred in:

3/14/2003

HB 142, introduced by Devlin

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 15, 2003

MOTIONS

HB 578 - Senator Grimes moved **HB 578** be taken from the second reading board and rereferred to the committee on Judiciary. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 476, introduced by Stonington, E. Clark (by request of House Joint Appropriations Subcommittee on Health and Human Services), referred to Finance and Claims.

SB 477, introduced by Harrington, referred to Taxation.

SB 478, introduced by Story, Anderson, DePratu, Devlin, Forrester, Fuchs, Glaser, Jackson, Keenan, Lambert, Matthews, McNutt, Mood, A. Olson, Peterson, F. Thomas, Waitschies, referred to Taxation.

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 4, introduced by Cobb (by request of the Senate State Administration Standing Committee), referred to State Administration.

SR 5, introduced by Cobb (by request of the Senate State Administration Standing Committee), referred to State Administration.

The following House bill was introduced, read first time, and referred to committee:

HB 698, introduced by Gillan, Becker, referred to Public Health, Welfare and Safety.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 152 - Senator Stonington moved **HB 152** be concurred in. Motion carried unanimously.

HB 171 - Senator Cromley moved **HB 171** be concurred in. Motion carried unanimously.

HB 215 - Senator Harrington moved **HB 215** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Shea, Sprague, Stapleton, Stonington, Tash, Tester, Toole, Tropila, Wheat, Zook, Mr. President.

Total 34

Nays: Bales, Cocchiarella, Esp, Gebhardt, Laible, Ryan, Story, Taylor.

Total 8

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Absent or not voting: None.
Total 0

Excused: Cobb, Glaser, Johnson, McCarthy, Perry, Schmidt, Squires, Thomas.
Total 8

HB 250 - Senator Roush moved **HB 250** be concurred in. Motion carried unanimously.

HB 280 - Senator DePratu moved **HB 280** be concurred in. Motion carried unanimously.

HB 299 - Senator Bales moved **HB 299** be concurred in. Motion carried unanimously.

HB 311 - Governor's Amendments - Senator Laible moved Governor's amendments to **HB 311** be concurred in. Motion carried unanimously.

HB 333 - Senator Black moved **HB 333** be concurred in. Motion carried unanimously.

HB 455 - Senator Bales moved **HB 455** be concurred in. Motion carried unanimously.

HJR 15 - Senator Pease moved **HJR 15** be concurred in. Motion carried unanimously.

SB 75 - House Amendments - Senator Stapleton moved House amendments to **SB 75** be concurred in. Motion carried unanimously.

HB 32 - Senator Tropila moved **HB 32** be concurred in. Motion carried unanimously.

Senator Shea excused at this time.

HB 55 - Senator McGee moved **HB 55** be concurred in. Motion carried unanimously.

HB 76 - Senator Cocchiarella moved **HB 76** be concurred in. Motion carried unanimously.

HB 97 - Senator Schmidt moved **HB 97** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Tash, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 34

Nays: Black, Butcher, Curtiss, Esp, Gebhardt, Grimes, O'Neil, Stapleton, Story, Taylor, Thomas.
Total 11

Absent or not voting: Mangan, Pease.
Total 2

Excused: Cobb, McCarthy, Shea.
Total 3

HB 98 - Senator Sprague moved **HB 98** be concurred in. Motion carried unanimously.

SENATE JOURNAL
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HB 126 - Senator D. Ryan moved **HB 126** be concurred in. After discussion, Senator Ryan made a **substitute motion** that **HB 126** be moved to the bottom of the second reading board. Motion carried unanimously.

HB 164 - Senator Cocchiarella moved **HB 164** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

Nays: Butcher, Johnson, Taylor.

Total 3

Absent or not voting: None.

Total 0

Excused: Cobb, McCarthy, Shea.

Total 3

HB 170 - Senator Cromley moved **HB 170** be concurred in. Motion carried unanimously.

HB 180 - Senator Stonington moved **HB 180** be concurred in. Motion carried unanimously.

HB 240 - Senator Wheat moved **HB 240** be concurred in. Motion carried unanimously.

HB 490 - Senator Elliott moved **HB 490** be concurred in. Motion carried unanimously.

HB 493 - Senator Cromley moved **HB 493** be concurred in. Motion carried unanimously.

HB 552 - Senator Black moved **HB 552** be concurred in. Motion carried unanimously.

HB 562 - Senator Toole moved **HB 562** be concurred in. Motion carried unanimously.

HJR 19 - Senator Bohlinger moved **HJR 19** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 37

Nays: Bales, Butcher, Curtiss, Esp, Laible, McGee, Stapleton, Story.

Total 8

Absent or not voting: None.

Total 0

Excused: Cobb, McCarthy, Perry, Shea, Tash.

Total 5

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HB 126 - Senator D. Ryan moved **HB 126** be concurred in. Motion carried with Senator O'Neil voting nay.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 134, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Cobb, McCarthy, Shea.

Total 3

ANNOUNCEMENTS

Senator Stapleton introduced the Senate pages for the week, gave a brief overview of their activities and future plans, and thanked them for their work through the week.

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, March 17, 2003. Motion carried.

Senate adjourned at 10:30 a.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
March 17, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Harrington, excused. Quorum present.

The presiding officer has authenticated the daily journal for the fifty-fifth legislative day.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 476, SB 477, SB 478, SR 4, SR 5.**

Correctly engrossed: **SB 460, HB 105, HB 211, HB 350, HB 428, HB 478, HB 667.**

Signed by the President at 10:10 a.m., March 15, 2003: **SB 3, SB 10, SB 14, SB 17, SB 21, SB 27, SB 32, SB 33, SB 38, SB 40, SB 49, SB 51, SB 69.**

Signed by the Secretary of the Senate at 8:30 a.m., March 17, 2003: **SB 3, SB 10, SB 14, SB 17, SB 21, SB 27, SB 32, SB 33, SB 38, SB 40, SB 49, SB 51, SB 69.**

Signed by the Speaker at 9:45 a.m., March 17, 2003: **SB 3, SB 17, SB 27, SB 32, SB 33, SB 38, SB 40.**

Signed by the Speaker at 9:50 a.m., March 17, 2003: **SB 14, SB 21, SB 49, SB 51, SB 69.**

Signed by the Speaker at 11:00 a.m., March 17, 2003: **SB 10.**

Delivered to the Governor for approval at 11:35 a.m., March 17, 2003: **SB 3, SB 14, SB 17, SB 21, SB 27, SB 32, SB 33, SB 38, SB 40, SB 49, SB 51, SB 69.**

Delivered to the Governor for approval at 11:40 a.m., March 17, 2003: **SB 10.**

COMMITTEE ON COMMITTEES (Zook, Chairman):

3/17/2003

Committee on Committees met and appointed the following member to the Senate Rules Committee:

Senator Bill Glaser

Report adopted.

Committee on Committees met and reappointed the following members to the Legislative Consumer Committee for a two year term:

Senator Walt McNutt
Senator Debbie Shea

The Legislative Consumer Committee hires the Consumer Counsel and sets his salary.

Report adopted.

JUDICIARY (Grimes, Chairman):

3/17/2003

HB 127, be amended as follows:

1. Page 4, line 15.

Following: "court orders"

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Strike: "-- state attorney fees and costs"

2. Page 5, line 11.

Following: "action."

Insert: "A person who brings an action on the person's own behalf without an attorney may receive attorney fees at the judge's discretion."

3. Page 23, line 20.

Following: line 19

Insert: "NEW SECTION. Section 18. Coordination instruction. (1) If House Bill No. 571 and [this act] are both passed and approved, then subsection (1) of 30-14-133 in [section 4 of House Bill No. 571] is amended to read:

"(1) ~~Any person who purchases or leases goods or services primarily for personal, family, or household purposes and thereby~~ A consumer who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act, or practice declared unlawful by 30-14-103 may bring an individual but not a class action under the rules of civil procedure in the district court of the county in which the seller, ~~or~~ lessor, or service provider resides or has ~~his~~ its principal place of business or is doing business to recover actual damages or ~~\$200~~ \$500, whichever is greater. An individual claim may be brought in justice's court. The court may, in its discretion, award up to three times the actual damages sustained and may provide ~~such~~ any other equitable relief ~~as~~ that it considers necessary or proper."

(2) If House Bill No. 571 and [this act] are both passed and approved, then [section 5] of House Bill No. 571, amending 30-14-142, is void.

(3) If House Bill No. 571 and [this act] are both passed and approved, then [section 8] of House Bill No. 571, amending 30-14-220, is void."

And, as amended, be concurred in. Report adopted.

HB 246, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

3/17/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 12 noon, Saturday, March 15, 2003:

TITLE

NAME

Pages:

Keren Harmon, Scobey, MT
Tyler DePratu, Whitefish, MT
Shasta DePratu, Whitefish, MT
Jessica Patrick, Rudyard, MT
Halley Gallagher, Gt. Falls, MT
Roald Ageson, Hingham, MT
Tyler Kirk, Frenchtown, MT
Chase Suchy, Billings, MT
Kelly Brown, Whitefish, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, March 17, 2003:

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<u>TITLE</u>	<u>NAME</u>	<u>SPONSOR</u>
Pages:	Brita Thompson, Harlowton, MT	Senator Gebhardt
	Nick Morton, Kalispell, MT	Senator Barkus
	Tara Rice, Choteau, MT	Senator Black
	Michael Lyons, Gt. Falls, MT	Senator Mangan
	Megan Nemitz, Billings, MT	Senator Bohlinger
	Krista Holden, Glendive, MT	Senator Bales
	Cole Arthun, Wilsall, MT	Senator Esp
	Bente Grinde, Big Fork, MT	Senator Keenan

Report Adopted.

NATURAL RESOURCES (Tash, Chairman):
HB 303, be amended as follows:

3/17/2003

1. Page 2, line 12.

Strike: "AND"

2. Page 2, line 14.

Following: "~~kilovolts~~"

Insert: "with a design capacity of more than 69 kilovolts but less than 230 kilovolts"

3. Page 2, line 16 through line 17.

Following: "and"

Strike: "IF:" on line 16 through "OR" on line 17

Insert: "; and"

4. Page 2, line 19.

Strike: "(B) THE LINE"

Insert: "(iii) does not include an electric transmission line that"

5. Page 2, line 21.

Following: "facility"

Insert: "for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline"

And, as amended, be concurred in. Report adopted.

HJR 4, be amended as follows:

1. Page 1, line 21.

Strike: ", REDUCING WASTE,"

2. Page 1, line 29.

Strike: "QUANTITATIVELY"

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3. Page 1, line 29 through line 30.

Following: "OF"

Strike: "AND THE" on line 29 through "EFFICIENCY" on line 30

Insert: "water distribution systems"

4. Page 2, line 2.

Strike: "THE LONG-TERM" through "BASINS"

Insert: "return flow impacts"

5. Page 2, line 5.

Strike: "and"

6. Page 2, line 6.

Strike: "."

Insert: "; and

(7) evaluate the effects of excessive fuel levels on federal and state timbered lands to determine the impacts of the use of available water by timber versus the amount of water release by a watershed into Montana watercourses."

7. Page 2, line 12.

Following: "sector"

Insert: ", tribal governments,"

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

3/17/2003

HB 252, be concurred in. Report adopted.

HB 621, be concurred in. Report adopted.

HJR 25, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 17, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 41** sponsored by Senator Tropila, **Senate Bill 42** sponsored by Senator Tropila, and **Senate Bill 43** sponsored by Senator Tropila on March 17, 2003.

Sincerely,

JUDY MARTZ
Governor

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MESSAGES FROM THE OTHER HOUSE

HB 56 - The House failed to concur in Senate amendments to **HB 56**, authorized the Speaker to appoint the following Conference Committee, and requested the Senate appoint a like committee to confer on Senate amendments to **HB 56**:
3/15/2003

Representative B. Thomas, Chair
Representative Becker
Representative Noennig

SB 79, introduced by Sprague, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, was not concurred in by the House and was returned to the Senate with the following vote:
3/17/2003

Yeas -42
Nays - 54

MOTIONS

SB 47 - Senator Thomas moved the President be authorized to appoint a **Conference Committee**, and request the House to appoint a like committee, to confer on House Amendments to **SB 47**. Motion carried. The president appointed the following members:

Senator Gebhardt, Chairman
Senator Esp
Senator Wheat

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 75, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 32 concurred in as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 55 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 76, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 43

Nays: Butcher, Esp, Johnson, O'Neil, Taylor, Zook.

Total 6

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

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HB 97 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stonington, Taylor, Toole, Tropila, Wheat.

Total 28

Nays: Bales, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, McNutt, Nelson, O'Neil, Ryan, Stapleton, Story, Tash, Tester, Thomas, Zook, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 98, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 126 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 40

Nays: Bales, Butcher, Esp, Gebhardt, McGee, O'Neil, Stapleton, Taylor, Mr. President.

Total 9

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

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HB 152, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 164 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Butcher, Johnson, Stapleton.
Total 3

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 170, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp
Total 1

Absent or not voting: None.
Total 0

Excused: Harrington.

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Total 1

HB 171, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 180 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 215 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 42

Nays: Bales, Esp, Gebhardt, Nelson, Ryan, Stapleton, Taylor.

Total 7

Absent or not voting: None.

Total 0

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Excused: Harrington.
Total 1

HB 240 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 250 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 280 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: Harrington.

Total 1

HB 299, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Toole.

Total 1

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 311, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 333, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

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Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 428, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 45

Nays: Bohlinger, Johnson, Pease, Tropila.
Total 4

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 455 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Curtiss, McGee, Roush, Ryan, Tester.
Total 5

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 490 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Butcher, Stapleton.

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Total 2

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 493 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 552 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 562 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HJR 15 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HJR 19 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 41

Nays: Bales, Butcher, Esp, Laible, McGee, Stapleton, Story, Thomas.
Total 8

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

SPECIAL ORDERS OF THE DAY

Colleen Mockler gave tribute to St. Patrick's Day by singing a beautiful rendition of When Irish Eyes Are Smiling. Former State Senator J. D. Lynch entered the Senate Chamber to share Irish tales, and to wish blessings on the Senate and to our great country, America.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Stonington in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 26 - House Amendments - Senator Mangan moved House amendments to **SB 26** be concurred in. Motion carried unanimously.

SB 36 - House Amendments - Senator Grimes moved consideration of House amendments to **SB 36** be placed at the bottom of the second reading board. Motion carried unanimously.

SB 460 - Senator Story moved **SB 460** do pass. Motion carried unanimously.

HB 172 - Senator Kitzenberg moved **HB 172** be concurred in. Motion carried unanimously.

HB 211 - Senator McGee moved **HB 211** be concurred in. Motion carried unanimously.

HB 224 - Senator O'Neil moved consideration of **HB 224** be placed at the bottom of the second reading board. Motion carried unanimously.

HB 339 - Senator Butcher moved **HB 339** be concurred in. Motion carried unanimously.

HB 350 - Senator Cromley moved **HB 350** be concurred in. Motion carried unanimously.

HB 391 - Senator DePratu moved **HB 391** be concurred in. Motion carried unanimously.

HB 402 - Senator Perry moved **HB 402** be concurred in. Motion carried unanimously.

HB 429 - Senator Story moved **HB 429** be concurred in. Motion carried unanimously.

HB 520 - Senator Bohlinger moved **HB 520** be concurred in. Motion carried as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 31

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, Esp, Glaser, Laible, McGee, McNutt, Perry, Stapleton, Story, Tash, Zook, Mr. President.

Total 17

Absent or not voting: None.

Total 0

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Excused: Harrington, O'Neil.
Total 2

HB 478 - Senator Wheat moved **HB 478** be concurred in. Motion carried unanimously.

HB 583 - Senator Bohlinger moved **HB 583** be concurred in. After discussion, Senator Bohlinger made a **substitute motion** that consideration of **HB 583** be passed for the day. Motion carried.

HB 635 - Senator Cromley moved **HB 635** be concurred in. Motion carried unanimously.

HB 667 - Senator Elliott moved **HB 667** be concurred in. After discussion, Senator Elliott made a **substitute motion** that consideration of **HB 667** be passed for the day.

SB 36 - House Amendments - Senator Grimes moved House amendments to **SB 36** be concurred in. Motion carried unanimously.

HB 224 - Senator O'Neil moved **HB 224** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, McGee, O'Neil, Perry, Ryan, Shea, Sprague, Stapleton, Story, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 29

Nays: Butcher, Cooney, Cromley, Elliott, Hansen, Johnson, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Schmidt, Squires, Stonington, Tash, Tester, Toole, Wheat.
Total 20

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Stonington moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

HB 667 - Senator Thomas moved **HB 667** be taken from second reading and rereferred to the committee on Business and Labor. Motion carried.

HB 520 - Senator Thomas moved **HB 520** be taken from third reading and rereferred to the committee on Finance. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

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Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, March 18, 2003. Motion carried.

Senate adjourned at 3:05 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
March 18, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the fifty-sixth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **HB 127, HB 303, HJR 4.**

Correctly enrolled: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 45, SB 55, SB 64, SB 68, SB 71, SB 88, SB 94, SB 125, SB 144, SB 151, SJR 21.**

Examined by the sponsor and found to be correct: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 45, SB 55, SB 64, SB 68, SB 71, SB 88, SB 94, SB 125, SB 144, SB 151, SJR 21.**

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

3/17/2003

HJR 5, be concurred in. Report adopted.

HJR 8, be concurred in. Report adopted.

FISH AND GAME (Sprague, Chairman):

3/14/2003

HB 123, be amended as follows:

1. Title, line 7.

Following: "AGE"

Insert: "AND ELIMINATING THE LICENSE FEE"

2. Page 2, line 5.

Following: "application"

Strike: "and" through "\$3"

And, as amended, be concurred in. Report adopted.

HB 262, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

3/18/2003

HB 373, be concurred in. Report adopted.

HB 437, be amended as follows:

1. Title, line 9.

Strike: "COMPLIANCE WITH"

Insert: "ADEQUATE REMEDIES AS REQUIRED BY"

2. Title, line 10.

Following: "LAWS OR"

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Insert: "OPENCUT MINING RECLAMATION LAWS, A CHALLENGE TO A LICENSE OR PERMIT ISSUED PURSUANT TO THE METAL MINE RECLAMATION LAWS,"

3. Title, lines 11 through 13.

Following: "ACT" on line 11

Insert: ", OR AN AMENDMENT ISSUED PURSUANT TO THE OPENCUT MINING RECLAMATION LAWS"

Following: "MUST" on line 11

Strike: remainder of line 11 through "ISSUED" on line 13

Insert: "PROVIDE FOR COSTS AND ATTORNEY FEES IF THE CHALLENGE WAS FOR AN IMPROPER PURPOSE"

4. Title, line 15.

Strike: "MONTANA ADMINISTRATIVE PROCEDURE ACT."

5. Title, line 16 through line 18.

Strike: "NATURAL" on line 16 through "METAL MINE RECLAMATION LAWS" on line 18

Insert: "THE ISSUANCE OF AN AMENDMENT UNDER THE OPENCUT MINING RECLAMATION LAWS, THE ISSUANCE OF A LICENSE OR PERMIT UNDER THE METAL MINE RECLAMATION LAWS, A PETITION FOR REVIEW CHALLENGING A LICENSING OR PERMITTING DECISION UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT, AN ARBITRATION ACTION UNDER THE NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975, ANY ACTION UNDER THE HAZARDOUS WASTE FACILITIES LAWS OR THE MONTANA ENVIRONMENTAL POLICY ACT, ENTRY AND INSPECTION UNDER THE COAL AND URANIUM MINE RECLAMATION LAWS,"

6. Title, line 19.

Strike: "PERMITTED"

7. Title, line 20.

Following: the first "ACTIVITY"

Strike: "OR ACTIVITY AUTHORIZED IN THE CERTIFICATE"

Insert: "SUBJECT TO THE PERMIT, PETITION FOR REVIEW, AMENDMENT, LICENSE, ARBITRATION, ACTION, CERTIFICATE, OR INSPECTION"

8. Title, line 23.

Strike: "ON ANY SITE"

Insert: "AT ANY FACILITY"

9. Title, line 24.

Following: "2-4-702."

Insert: "2-4-704,"

10. Title, line 25.

Strike: "75-2-211,"

11. Title, line 29.

Following: "~~AND~~"

Strike: ", AN APPLICABILITY DATE, AND A TERMINATION DATE"

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

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12. Page 4, line 10.

Insert: "NEW SECTION. Section 2. Determination of constitutionality. In any action filed in district court invoking the court's original jurisdiction to challenge the constitutionality of a licensing or permitting decision made pursuant to Title 75 or Title 82 or activities taken pursuant to a license or permit issued under Title 75 or Title 82, the plaintiff shall first establish the unconstitutionality of the underlying statute."

Insert: "**Section 3.** Section 2-4-704, MCA, is amended to read:

"2-4-704. Standards of review. (1) The review ~~shall~~ must be conducted by the court without a jury and ~~shall~~ must be confined to the record. In cases of alleged irregularities in procedure before the agency not shown in the record, proof ~~thereof~~ of the irregularities may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(2) The court may not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because:

(a) the administrative findings, inferences, conclusions, or decisions are:

(i) in violation of constitutional or statutory provisions;

(ii) in excess of the statutory authority of the agency;

(iii) made upon unlawful procedure;

(iv) affected by other error of law;

(v) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;

(vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion;

or

(b) findings of fact, upon issues essential to the decision, were not made although requested.

(3) If a petition for review is filed challenging a licensing or permitting decision made pursuant to Title 75 or Title 82 on the grounds of unconstitutionality, as provided in subsection (2)(a)(i), the petitioner shall first establish the unconstitutionality of the underlying statute."

Renumber: subsequent sections

13. Page 4, line 25.

Strike: "IT"

Insert: "The Montana Environmental Policy Act is procedural, and it"

14. Page 4, lines 26 through 28.

Following: "PROVIDE" on line 26

Insert: "for the"

Following: "ADEQUATE" on line 26

Strike: remainder of line 26 through "RESOURCES" on line 28

Insert: "review of state actions in order to ensure that environmental attributes are fully considered"

15. Page 6, line 9.

Following: "rights"

Strike: " 1 "

Strike: "AND THE COURTS,"

16. Page 6, line 25.

Following: "balanced"

Strike: " 1 "

Strike: "AND THE COURTS,"

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17. Page 7, line 10.

Strike: "-- injunction for permit challenge"

18. Page 7, line 22.

Strike: "an action for A PRELIMINARY injunction against"

19. Page 7, line 23

Following: " _ "

Insert: "All judicial challenges of permits for projects with a project cost, as determined under 75-1-203, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action."

20. Page 7, line 28 through page 13, line 18.

Strike: section 7 in its entirety

Renumber: subsequent sections

21. Page 20, line 16.

Strike: "on"

Insert: "at"

Strike: "site"

Insert: "facility"

22. Page 20, line 17 through line 18.

Strike: "meets" on line 17 through "constitution" on line 18

Insert: "is intended to provide for the protection of the environmental life support system from degradation and to prevent unreasonable depletion and degradation of natural resources"

23. Page 25, lines 4 and 5.

Strike: subsection (7) in its entirety

Insert: "(7) All judicial challenges of certificates for projects with a project cost, as determined under 75-1-203, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action."

24. Page 25, line 18.

Following: "include"

Strike: "an action for A PRELIMINARY injunction against"

25. Page 25, line 20.

Following: " _ "

Insert: "All judicial challenges of certificates for projects with a project cost, as determined under 75-1-203, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action."

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26. Page 25, line 26.

Strike: "~~-- injunction~~"

27. Page 26, line 4.

Following: "include"

Strike: "an action for A PRELIMINARY injunction against"

28. Page 26, line 6.

Following: " ; "

Insert: "All judicial challenges of certificates for projects with a project cost, as determined under 75-1-203, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action."

29. Page 34, line 24.

Strike: "~~-- injunction~~"

30. Page 35, line 3 through line 4.

Following: "include" on line 3

Strike: remainder of line 3 through "against" on line 4

31. Page 35, line 5.

Following: " ; "

Insert: "All judicial challenges of licenses or permits for projects with a project cost, as determined under 75-1-203, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action."

32. Page 35, line 27.

Strike: "~~-- injunction~~"

33. Page 36, line 6.

Strike: "an action for a preliminary injunction against"

34. Page 36, line 7.

Following: " ; "

Insert: "All judicial challenges of permits for projects with a project cost, as determined under 75-1-203, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action."

35. Page 36, line 10.

Strike: "~~-- injunction~~"

36. Page 37, line 4.

Strike: "an action for a preliminary injunction against"

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37. Page 37, line 5.

Following: " _ "

Insert: "All judicial challenges of amendments for projects with a project cost, as determined under 75-1-203, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action."

38. Page 38, line 1.

Following: "instruction."

Insert: "(1)"

Strike: "36"

Insert: "37"

39. Page 38, line 3.

Strike: "36"

Insert: "37"

40. Page 38, line 4.

Insert: "(2) [Section 2] is intended to be codified as an integral part of Title 82 and Title 75, and the provisions of Title 82 and Title 75 apply to [section 2]."

41. Page 38, line 12 through line 15.

Strike: sections 40 and 41 in their entirety

42. Page 38, line 16.

Insert: "NEW SECTION. Section 41. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to actions for judicial review or other causes of action challenging the issuance of a permit, petition for review, amendment, license, arbitration, action, certificate, or inspection that are pending but not yet decided on or after [the effective date of this act]."

And, as amended, be concurred in. Report adopted.

HB 443, be concurred in. Report adopted.

HB 683, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

3/18/2003

HJR 24, be adopted. Report adopted.

HJR 28, be adopted. Report adopted.

TAXATION (DePratu, Chairman):

3/17/2003

SB 407, introduced bill, be amended as follows:

1. Title, line 11.

Following: "DEDUCTION;"

Insert: "INCREASING THE CIGARETTE TAX FROM 18 CENTS TO 70 CENTS ON A PACK OF CIGARETTES AND DEPOSITING THE AMOUNT FROM THE INCREASE IN THE STATE GENERAL FUND; ADJUSTING THE CIGARETTE INSIGNIA DISCOUNTS; INCREASING THE TAX ON TOBACCO

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PRODUCTS FROM 12.5 PERCENT TO 25 PERCENT; PROVIDING FOR A TAX ON EACH OUNCE OF
MOIST SNUFF; ADJUSTING THE WHOLESALE'S DISCOUNT FOR TOBACCO PRODUCTS;"

2. Title, page 1, line 12.

Strike: "AND"

Following: "15-30-142,"

Insert: "16-11-111, 16-11-114, 16-11-119, 16-11-201, 16-11-202, AND 16-11-206,"

3. Title, page 1, line 13.

Following: "PROVIDING"

Strike: "DELAYED"

Strike: "AN"

Strike: "DATE"

Insert: "DATES"

4. Page 1, line 20.

Strike: "41"

Insert: "40"

5. Page 2, line 30 through page 3, line 5.

Strike: subsections (8) and (9) in their entirety

Renumber: subsequent subsections

6. Page 4, line 8.

Strike: "19"

Insert: "18"

7. Page 4, line 11 through line 25.

Strike: subsection (15) in its entirety

8. Page 5, line 22.

Strike: "(21)(a)(iii) through (21)(a)(vii)"

Insert: "(18)(a)(iii) through (18)(a)(vii)"

9. Page 7, line 12.

Strike: "4%"

Insert: "the following percentages"

10. Page 7, lines 13 and 14.

Strike: subsections (a) and (b) in their entirety

Renumber: subsequent subsections

11. Page 7, line 15.

Following: "(c)"

Insert: "4% on"

12. Page 7, line 16.

Following: "(d)"

Insert: "5% on"

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13. Page 7, line 17.

Following: "(e)"

Insert: "9% on"

14. Page 7, line 18.

Following: "(f)"

Insert: "4% on"

15. Page 7, line 19.

Following: "(g)"

Insert: "4% on"

16. Page 7, line 20.

Following: "(h)"

Insert: "4% on"

17. Page 7, line 21.

Following: "(i)"

Insert: "4% on"

18. Page 7, line 22.

Following: "(j)"

Insert: "4% on"

19. Page 7, line 27.

Strike: "4%"

Insert: "the following percentages"

20. Page 7, lines 28 and 29.

Strike: subsections (i) and (ii) in their entirety

Renumber: subsequent subsections

21. Page 7, line 30.

Following: "(iii)"

Insert: "4% on"

22. Page 8, line 1.

Following: "(iv)"

Insert: "5% on"

23. Page 8, line 2.

Following: "(v)"

Insert: "9% on"

24. Page 8, line 3.

Following: "(vi)"

Insert: "4% on"

25. Page 8, line 4.

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Following: "(vii)"
Insert: "4% on"

26. Page 8, line 5.
Following: "(viii)"
Insert: "4% on"

27. Page 8, line 6.
Following: "(ix)"
Insert: "4% on"

28. Page 8, line 7.
Following: "(x)"
Insert: "4% on"

29. Page 8, line 21.
Strike: "41"
Insert: "40"

30. Page 9, line 14.
Strike: "41"
Insert: "40"

31. Page 9, line 26.
Strike: "41"
Insert: "40"

32. Page 9, line 29.
Strike: "41"
Insert: "40"
Strike: "19"
Insert: "18"

33. Page 10, line 6.
Strike: "41"
Insert: "40"

34. Page 10, line 8.
Strike: "41"
Insert: "40"

35. Page 10, line 10.
Strike: "41"
Insert: "40"

36. Page 11, line 4.
Strike: "19"
Insert: "18"

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37. Page 11, line 24 through line 28.

Strike: section 12 in its entirety

Renumber: subsequent sections

38. Page 13, line 9.

Strike: "41"

Insert: "40"

39. Page 13, line 11.

Strike: "41"

Insert: "40"

40. Page 13, line 17.

Strike: "41"

Insert: "40"

41. Page 13, line 24.

Strike: "41"

Insert: "40"

42. Page 13, line 27 through line 28.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

43. Page 14, line 2.

Strike: "41"

Insert: "40"

44. Page 14, line 12.

Strike: "41"

Insert: "40"

45. Page 14, line 17.

Strike: "41"

Insert: "40"

Strike: "29"

Insert: "28"

46. Page 14, line 18.

Strike: "41"

Insert: "40"

47. Page 14, line 26.

Strike: "41"

Insert: "40"

48. Page 15, line 18.

Strike: "41"

Insert: "40"

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49. Page 15, line 19.

Strike: "29"

Insert: "28"

50. Page 15, line 20.

Strike: "41"

Insert: "40"

51. Page 15, line 22.

Strike: "19"

Insert: "18"

52. Page 15, line 28.

Strike: "41"

Insert: "40"

53. Page 16, line 12.

Strike: "41"

Insert: "40"

54. Page 16, line 15.

Strike: "41"

Insert: "40"

55. Page 16, line 28.

Strike: "41"

Insert: "40"

56. Page 16, line 29.

Strike: "41"

Insert: "40"

57. Page 17, line 1.

Strike: "41"

Insert: "40"

58. Page 17, line 19.

Strike: "26"

Insert: "25"

59. Page 18, line 4.

Strike: "26"

Insert: "25"

60. Page 18, line 26.

Strike: "41"

Insert: "40"

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61. Page 18, line 30.

Strike: "26"

Insert: "25"

62. Page 19, line 19.

Strike: "41"

Insert: "40"

63. Page 19, line 20.

Strike: "41"

Insert: "40"

64. Page 20, line 5.

Strike: "41"

Insert: "40"

65. Page 20, line 14.

Strike: "41"

Insert: "40"

66. Page 20, line 27.

Strike: "41"

Insert: "40"

67. Page 20, line 29.

Strike: "41"

Insert: "40"

68. Page 21, line 1.

Strike: "41"

Insert: "40"

69. Page 21, line 4.

Strike: "41"

Insert: "40"

70. Page 21, line 5.

Strike: "41"

Insert: "40"

71. Page 21, line 11.

Strike: "41"

Insert: "40"

72. Page 21, line 17.

Strike: "41"

Insert: "40"

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73. Page 22, line 7.

Strike: "41"

Insert: "40"

74. Page 22, line 13.

Strike: "41"

Insert: "40"

75. Page 22, line 14.

Strike: "41"

Insert: "40"

76. Page 22, line 19.

Strike: "41"

Insert: "40"

77. Page 22, line 29.

Strike: "41"

Insert: "40"

78. Page 23, line 2.

Strike: "41"

Insert: "40"

79. Page 23, line 9.

Strike: "41"

Insert: "40"

80. Page 23, line 12.

Following: "gains"

Insert: "for tax years 2004 and 2005 and 2% of the taxpayer's net capital gains for tax years beginning after 2005"

81. Page 23, line 18.

Strike: "\$2,150"

Insert: "\$2,300"

82. Page 23, line 20.

Strike: "\$1,300"

Insert: "\$1,400"

83. Page 25, line 5.

Strike: "2006"

Insert: "2004"

84. Page 29, line 6.

Strike: line 6 in its entirety

85. Page 29, line 7.

Strike: "(i)"

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Insert: "(a)"
Strike: "\$2,800"
Insert: "\$2,300"
Renumber: subsequent subsections

86. Page 29, line 8.
Strike: "\$1,400"
Insert: "\$1,800"

87. Page 29, line 9.
Strike: "\$2,400"
Insert: "\$2,100"

88. Page 29, line 10.
Strike: "\$2,600"
Insert: "\$2,200"

89. Page 29, line 11.
Strike: "\$3,200"
Insert: "\$2,400"

90. Page 29, line 12.
Strike: "\$3,000"
Insert: "\$3,100"

91. Page 29, line 13.
Strike: "\$15,600"
Insert: "\$13,900"

92. Page 29, line 13
Strike: ":",
Insert: "." (New amendment per clerical dated 3-19-2003)

93. Page 29, line 14 through line 26.
Strike: subsection (b) in its entirety

94. Page 29, line 27.
Strike: "For tax years beginning after December 31, 2005, by"
Insert: "By"

95. Page 29, line 28.
Strike: "(b)"

96. Page 29, line 30.
Strike: "(b)"

97. Page 30, line 6.
Strike: "\$1,950"
Insert: "\$1,840"

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98. Page 30, line 8.

Strike: "\$1,950"

Insert: "\$1,840"

99. Page 30, line 12.

Strike: "\$1,950"

Insert: "\$1,840"

100. Page 30, line 15.

Strike: "\$1,950"

Insert: "\$1,840"

101. Page 30, line 20.

Strike: "\$1,950"

Insert: "\$1,840"

102. Page 30, line 22.

Strike: "\$1,950"

Insert: "\$1,840"

103. Page 31, line 3.

Strike: "\$1,950"

Insert: "\$1,840"

104. Page 34, line 29.

Strike: "\$1,620"

Insert: "\$1,530"

105. Page 34, line 30.

Strike: "\$3,650"

Insert: "\$3,460"

106. Page 35, line 21.

Strike: "\$3,650"

Insert: "\$3,460"

107. Page 35, line 23.

Strike: "\$7,300"

Insert: "\$6,920"

108. Page 35, line 25.

Strike: "\$1,950"

Insert: "\$1,840"

109. Page 36, line 24.

Insert: "**Section 49.** Section 16-11-111, MCA, is amended to read:

"16-11-111. Cigarette sales tax -- exemption for sale to tribal member. (1) (a) A tax on the purchase of cigarettes for consumption, use, or any purpose other than resale in the regular course of business is imposed and must be precollected by the wholesaler and paid to the state of Montana. The tax is ~~†~~8 70 cents on each package containing

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20 cigarettes, ~~and, when~~ Whenever packages contain other than 20 cigarettes, there is a tax on each cigarette equal to 1/20th the tax on a package containing 20 cigarettes.

(b) The tax computed under subsection (1)(a) applies to illegally packaged cigarettes under 16-11-307.

(2) The tax imposed in subsection (1) does not apply to quota cigarettes.

(3) Subject to the refund or credit provided in subsection (4), the tax must be precollected on all cigarettes entering a Montana Indian reservation.

(4) Pursuant to the procedure provided in subsection (5), a wholesaler making a sale of cigarettes to a retailer within the boundaries of a Montana Indian reservation may apply to the department for a refund or credit for taxes precollected on cigarettes sold by the retailer to a member of the federally recognized Indian tribe or tribes on whose reservation the sale is made. A wholesaler who does not file a claim within 1 year of the shipment date forfeits the refund or credit.

(5) The distribution of tax-free cigarettes to a tribal member must be implemented through a system of preapproved wholesaler shipments. A licensed Montana wholesaler shall contact the department for approval prior to the shipment of the untaxed cigarettes. The department may authorize sales based on whether the quota, as established in a cooperative agreement between the department and an Indian tribe or as set out in this chapter, has been met. If authorized as a tax-exempt sale, the wholesaler, upon providing proof of order and delivery to a retailer within the boundaries of a Montana Indian reservation selling cigarettes to members of a federally recognized tribe or tribes of that reservation, must be given a ~~credit or~~ refund or credit. Once the quota has been filled, the department shall immediately notify all affected wholesalers that further sales on that reservation must be taxed and that a claim for a refund or credit will not be honored for the remainder of the quota period. Quota allocations are not transferable between quota periods or between reservations.

(6) The total amount of refunds or credits allowed by the department to all wholesalers claiming the refund or credit under subsection (4) for any month may not exceed an amount that is equal to the tax due on the quota allocation. The department shall determine the amount of refunds or credits for each Indian reservation at the beginning of each fiscal year, using the most recent census data available from the bureau of Indian affairs or as provided in a cooperative agreement with the tribe or tribes of the Indian reservation.""

Insert: "Section 50. Section 16-11-114, MCA, is amended to read:

"16-11-114. Insignia discount. Each licensed wholesaler is entitled to purchase an insignia at full face value less the following percentage of the face value upon payment for the insignia as defrayment of the costs of affixing insignia and precollecting the tax on behalf of the state of Montana:

(1) ~~6%~~ 1.5% for the first 2,580 cartons or portion ~~thereof~~ of 2,580 cartons purchased in any calendar month;

(2) ~~4%~~ 1% for the next 2,580 cartons or portion ~~thereof~~ of 2,580 cartons purchased in any calendar month; and

(3) ~~3%~~ 0.75% for purchases in excess of 5,160 cartons in any calendar month.""

Insert: "Section 51. Section 16-11-119, MCA, is amended to read:

"16-11-119. Disposition of taxes. Cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 15-1-501, be ~~allocated~~ deposited as follows:

(1) ~~The amount of 11.11% of the cigarette tax collected on each package of cigarettes must be deposited~~ 3.2% in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;

(2) ~~The amount of 73.04% must, in accordance with the provisions of 15-1-501, be deposited~~ 92.3% in the state general fund; and

(3) ~~The amount of 15.85% must, in accordance with the provisions of 15-1-501, be deposited~~ 4.5% in the long-range building program account provided for in 17-7-205.""

Insert: "Section 52. Section 16-11-201, MCA, is amended to read:

"16-11-201. Definitions. As used in this part, the following definitions apply, unless the context requires otherwise:

(1) "Moist snuff" means any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the oral cavity.

(2) "Retailer" means any person other than a wholesaler who is engaged in the business of selling tobacco

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products to the ultimate consumer.

(2)(3) "Sale" or "sell" means any transfer of tobacco products for a consideration, exchange, barter, gift, offer for sale, or distribution, in any manner or by any means.

(3)(4) "Tobacco product" means a substance other than cigarettes that is intended for human consumption and that contains tobacco.

(4)(5) "Wholesale price" means the established price for which a manufacturer sells a tobacco product to a wholesaler or any other person before any discount or other reduction.

(5)(6) "Wholesaler" means any person who purchases tobacco products directly from the manufacturer or from any other person who purchases from the manufacturer and who acquires the products for sale to retail dealers.""

Insert: "Section 53. Section 16-11-202, MCA, is amended to read:

"16-11-202. Tax on sale of tobacco other than cigarettes -- imposed on retail consumer -- rate of tax.

(1) All taxes paid pursuant to the provisions of this section are considered to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person, the payment is considered as an advance payment and must be added to the price of tobacco products and recovered from the ultimate consumer or user. ~~Any~~ A person selling tobacco products at retail shall state or separately display in the premises where the products are sold a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section do not affect the method of collection of the tax as provided in this part.

(2) There must be collected and paid to the state of Montana a tax of ~~12 1/2%~~ 25% of the wholesale price, to the wholesaler, of all tobacco products, other than moist snuff to the wholesaler. The tax on moist snuff is 56 cents an ounce based upon the net weight of the package listed by the manufacturer. For packages of moist snuff that are less than or greater than 1 ounce, the tax must be proportional to the size of the package. Tobacco products shipped from Montana and destined for retail sale and consumption outside the state are not subject to this tax.""

Insert: "Section 54. Section 16-11-206, MCA, is amended to read:

"16-11-206. Wholesaler's discount -- disposition of taxes. The taxes specified in this part that are paid by the wholesaler must be paid to the department in full less a ~~5%~~ 2.5% defrayment for the wholesaler's collection and administrative expense and must, in accordance with the provisions of 15-1-501, be deposited by the department in the state general fund. Refunds of the tax paid must be made as provided in 15-1-503 in cases in which the tobacco products purchased become unsalable.""

Insert: "NEW SECTION. Section 55. Transition. (1) On or before June 30, 2003, each cigarette wholesale dealer, retail dealer, and vending machine operator shall file a report with the department of revenue in the form prescribed by the department showing the number of stamped cigarettes and cigarette tax insignia on hand at 12:01 a.m. on April 30, 2003.

(2) Accompanying the report filed pursuant to subsection (1), each cigarette wholesale dealer, retail dealer, and vending machine operator shall pay the difference in tax between the former tax rate and the new tax rate on that portion of inventory of cigarettes and cigarette tax insignia subject to [this act] held by the dealer or operator at 12:01 a.m. on April 30, 2003."

Insert: "NEW SECTION. Section 56. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

Renumber: subsequent sections

110. Page 36, line 26.

Strike: "41"

Insert: "40"

111. Page 36, line 27.

Strike: "41"

Insert: "40"

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112. Page 36, line 28.

Strike: "42"

Insert: "41"

113. Page 36, line 29.

Strike: "42"

Insert: "41"

114. Page 37, line 9.

Strike: "January 1, 2005"

Insert: "on passage and approval"

115. Page 37, line 10.

Strike: "43, 44, 46, 48, and 49"

Insert: "42 through 48"

116. Page 37, lines 12 and 13.

Following: "Applicability."

Insert: "(1)"

Following: "of" on line 12

Insert: "the following"

Strike: "after December 31, 2004" on lines 12 and 13

Insert: ":

(a) cigarette and tobacco products sold on or after May 1, 2003;

(b) accommodation and campground charges under [section 3(1)(b) and (3)(a)(ii)] made on or after June 1, 2003;

(c) base rental charges for rental vehicles under [section 3(1)(c) and (3)(a)(iii)] made on or after July 1, 2003;

and

(d) all other goods and services in [section 3(1) and (3)(a)] sold after March 31, 2004.

(2) [Sections 41 and 43 through 46] apply to tax years beginning after December 31, 2003"

And, as amended, do pass. Report adopted.

HB 616, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/17/2003

SB 70, introduced by McNutt

SB 102, introduced by McNutt

SB 108, introduced by McNutt

SB 122, introduced by Tash

SB 128, introduced by Mahlum

SB 190, introduced by Bohlinger

SB 202, introduced by Johnson

SB 221, introduced by Kitzenberg

SB 238, introduced by Mangan

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House joint resolution passed and transmitted to the Senate for concurrence:

3/17/2003

HJR 2, introduced by Devlin

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

3/17/2003

SB 109, introduced by McNutt

SB 141, introduced by Wheat

MOTIONS

HB 170 - Senator Esp moved he be allowed to change his vote on **HB 170**, third reading the 56th legislative day, from yea to nay. Motion carried.

HB 56 - Senator Thomas moved the President be authorized to appoint a **Conference Committee** to meet with a like committee from the House to confer on Senate Amendments to **HB 56**. Motion carried.

The President appointed the following members:

Senator Esp, chairman
Senator Stonington
Senator Cromley.

HB 299 - Senator Tester moved he be allowed to change his vote on **HB 299**, third reading the 56th legislative day, from nay to yea. Motion carried.

Senator Tester moved to suspend joint rule 40-50 for the late drafting and introduction of a joint resolution supporting the troops in Iraq. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senates bills were introduced, read first time, and referred to committee:

SB 479, introduced by Elliott, referred to Taxation.

SB 480, introduced by Black, referred to Taxation.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 2, introduced by Devlin (by request of the Revenue and Transportation Interim Committee), referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Black in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

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HB 583 - Senator Bohlinger moved **HB 583** be concurred in. After discussion, Senator Bohlinger made a substitute motion that **HB 583**, second reading copy, be amended as follows:

1. Page 3, line 2.

Strike: "but not limited to"

2. Page 3, line 8.

Strike: "tax levy,"

Amendment **adopted** unanimously.

HB 583 - Senator Bohlinger moved **HB 583**, as amended, be concurred in. Motion carried with Senators McGee and Story voting nay.

HB 246 - Senator Perry moved **HB 246** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Taylor, Tester, Toole, Tropila, Wheat.

Total 34

Nays: Bales, Butcher, Cromley, Curtiss, Esp, Gebhardt, Glaser, Laible, Mahlum, McGee, O'Neil, Stapleton, Tash, Thomas, Zook, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 252 - Senator Cobb moved **HB 252** be concurred in. Motion carried unanimously.

HB 368 - Senator Anderson moved **HB 368** be concurred in. Motion carried unanimously.

HB 436 - Senator Perry moved **HB 436** be concurred in. Motion carried with Senator Hansen voting nay.

HB 621 - Senator Barkus moved **HB 621** be concurred in. Motion carried unanimously.

HJR 25 - Senator Roush moved **HJR 25** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Black moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

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SB 26, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 36, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 460 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 172 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 211, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Johnson.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 224 failed as follows:

Yeas: Anderson, Bohlinger, Cobb, Curtiss, DePratu, Esp, Gebhardt, Grimes, Kitzenberg, Laible, Mahlum, McGee, O'Neil, Perry, Ryan, Shea, Sprague, Squires, Story, Taylor, Thomas, Tropila.

Total 22

Nays: Bales, Barkus, Black, Butcher, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Schmidt, Stapleton, Stonington, Tash, Tester, Toole, Wheat, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

HB 339 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 350, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 391 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

HB 402 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 429 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 46

Nays: Cocchiarella, Mangan, Ryan, Mr. President.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 478, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 635 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Stapleton, Thomas.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, March 19, 2003. Motion carried.

Senate adjourned at 2:05 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
March 19, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the fifty-seventh legislative day.

COMMUNICATIONS AND PETITIONS

Due to the potential for war action in Iraq, President Keenan informed the Senate and staff that they would be required to wear a picture identification while in the Capitol. He further informed the Senate of an emergency disaster practice to be held in the near future and asked all Senators and staff to adhere to the directions in the emergency pamphlet they would be getting.

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman):
SB 385, introduced bill, be amended as follows:

3/18/2003

1. Title, page 1, line 13.

Strike: "DEDUCTIBLE"

Insert: "EXCLUDED FROM GROSS INCOME"

2. Title, page 1, line 14.

Following: "15-30-111,"

Insert: "15-31-113,"

3. Page 1, line 19.

Strike: "4"

Insert: "6"

4. Page 1, line 25 through page 2, line 4.

Following: "a business" on line 25

Strike: remainder of line 25 through "(4)(e)." on page 2, line 4

Insert: "whose principal headquarters is located in Montana, that is projected to have at least 35% of its employees located in Montana for the following 3 years, and that is estimated within 3 years to:

(a) receive at least 70% of its gross revenue from sources outside the state of Montana; or

(b) be a manufacturing company with at least 70% of its sales to other Montana companies that have 70% of sales from sources outside Montana."

5. Page 2, line 9.

Following: "company"

Insert: ", corporation, or partnership"

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6. Page 2, lines 12 and 13.

Following: "department." on line 12

Strike: remainder of line 12 through "body." on line 13

Insert: "In determining whether a capital investment fund has professional management, the department shall consider the experience of the investment manager related to the venture capital industry. The department may only approve individuals or companies with demonstrated expertise and success in the management of investments in venture capital funds."

7. Page 2, line 17.

Following: line 16

Insert: "(4) The capital investment fund shall pay to the department an annual fee of 0.75% of initial capitalization or \$50,000, whichever is less, for administration of [sections 1 through 6] as long as the total of the fees, assessed annually to all funds, does not exceed \$65,000 in the aggregate."

8. Page 2, line 19.

Following: the first "in"

Insert: "unrelated"

Following: "Montana"

Insert: "that do not displace other sources of equity or debt financing that are included in the balance sheet of the company unless the department determines the investment furthers the purposes of this chapter"

9. Page 2, line 21.

Following: "made"

Insert: "and allocated as provided in [section 2(3)]"

10. Page 2, line 23.

Following: "--"

Insert: "disallowance and"

11. Page 2, lines 24 through 26.

Following: "fund" on line 24

Strike: remainder of line 24 through "taken" on line 26

Insert: "may claim their allocated share of the tax credit provided in [section 3]"

Strike: "investor" on line 26

Insert: "members"

12. Page 2, line 28.

Strike: "subsection (1)"

Insert: "[section 3]"

Strike: "taxpayer's"

Insert: "member's"

13. Page 2, line 30.

Following: "exceeds the"

Strike: "taxpayer's"

Insert: "member's"

14. Page 3, lines 8 through 12.

Following: "(3)" on line 8

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Strike: remainder of line 8 through "credit." on line 12

Insert: "The credit provided in [section 3] is subject to disallowance and recapture as follows:

- (a) The credit is disallowed in the tax year claimed if:
 - (i) the credit is claimed for investment in a business that:
 - (A) is not engaged in one or more of the required activities; or
 - (B) the department determines could not reasonably have been estimated to make at least 70% of its gross revenue from sources outside of Montana; or
 - (ii) a member of the capital investment fund and the business bear a relationship described in section 267(b) of the Internal Revenue Code, 26 U.S.C. 267(b).
- (b) If a business in which an investment was made does not make at least 70% of its gross revenue from sources outside of Montana during any tax year on or after the tax year in which the credit was claimed, in the tax year of the capital investment fund ending on or after that tax year of business, the capital investment fund must:
 - (i) reduce, but not below zero, the amount of any credit to which it is otherwise entitled for the tax year by an amount equal to the credit claimed for the business that did not make at least 70% of its gross revenue from sources outside of Montana, multiplied by a fraction, the numerator of which is 70 minus the percent of its gross revenue from sources outside of Montana and the denominator of which is 100 or the recaptured amount;
 - (ii) include in income the recaptured amount minus the credit reduction provided for in subsection (3)(b)(i); and
 - (iii) allocate the income provided for in subsection (3)(b)(ii) to the members or their successors in the same percentage the recaptured credit was allocated.
- (c) The credit is disallowed if a capital investment fund sells or otherwise transfers an interest in a primary sector business for which a credit provided in [section 3] was claimed within 2 years from the date of the investment."

15. Page 3, line 13.

Following: line 12

Insert: "NEW SECTION. Section 5. Reporting, recordkeeping, and examination. (1) Each approved capital investment fund shall report to the department on a quarterly basis:

- (a) the name of each investor in the capital investment fund who is qualified to receive a tax credit and the amount of each investor's investment;
- (b) the amount of any disbursement made to each investor in the capital investment fund;
- (c) financial records of the capital investment fund, including an income statement and a balance sheet; and
- (d) all qualified investments that the company has made since the last quarterly report, along with supporting documentation that the investment is a qualified investment, as described in [sections 1 through 6]. Supporting documentation must include information that confirms that at least 70% or more of the company's sales are from sources outside Montana.

(2) At least once each year, the department shall examine the books and affairs of each capital investment fund to determine if the capital investment fund is abiding by the purposes of [sections 1 through 6]. The cost of the annual review must be paid by each capital investment fund and the fees assessed must be commensurate with the costs of the department for conducting the review."

Insert: "NEW SECTION. Section 6. Conflict of interest -- arm's-length transactions. A capital investment fund may not invest in any business venture in which the combined ownership of the business venture for all investors in the capital investment fund exceeds 20% at the time of the decision to invest."

Renumber: subsequent sections

16. Page 5, line 27.

Strike: "4"

Insert: "6"

17. Page 9, line 25.

Strike: "4"

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Insert: "6"

18. Page 11, line 8.

Following: line 7

"Section 8. Section 15-31-113, MCA, is amended to read:

"15-31-113. Gross income and net income. (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax and exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, attributable to stockholders, either individual or corporate, not subject to Montana income or license tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding:

(i) gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section; and

(ii) net return on investments of a capital investment fund received pursuant to [sections 1 through 6].

(2) The term "net income" means the gross income of the corporation less the deductions set forth in 15-31-114.

(3) A corporation is not exempt from the corporation license tax unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from the corporation license tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporation license tax purposes in the same manner as a corporation that is subject to or liable for federal income tax according to the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year."

Renumber: subsequent sections

19. Page 11, line 9 through page 13, line 18.

Strike: section 6 in its entirety

Renumber: subsequent sections

20. Page 23, line 25.

Strike: "4"

Insert: "6"

21. Page 23, line 27.

Strike: "4"

Insert: "6"

And, as amended, do pass. Report adopted.

HB 145, be amended as follows:

1. Page 17, line 22.

Following: "fee"

Strike: "of \$50"

Insert: "pursuant to 33-2-708"

Strike: "deposit with"

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Insert: "forward to"

Strike: "credited"

2. Page 17, line 23.

Following: "general"

Insert: "deposited"

3. Page 17, lines 24 and 25.

Following: "(2)" on line 24

Strike: remainder of line 24 through "terminated" on line 25

Insert: "A consultant license continues in force until lapsed, suspended, revoked, or terminated"

4. Page 28, line 8.

Following: "funding."

Insert: "The association may not adopt a reduced premium rate schedule unless it has secured federal, state, or private funding specifically for that purpose and the use of the reduced premium rate schedule is limited to the available federal, state, or private funding."

5. Page 39, line 8.

Following: line 7

"NEW SECTION. Section 54. Coordination instruction. If House Bill No. 169 and [this act] are both passed and approved and if both amend 33-17-503, then [section 18 of House Bill No. 169], amending 33-17-503, is void."

And, as amended, be concurred in. Report adopted.

HB 165, be concurred in. Report adopted.

3/13/2003

HB 169, be amended as follows:

3/18/2003

1. Title, page 1, line 15.

Following: "DATE AND"

Strike: "AN"

2. Title, page 1, line 16.

Strike: "DATE"

Insert: "DATES"

3. Page 2, line 3.

Strike: "APPLICATION"

Insert: "examination"

4. Page 27, line 5.

Following: "applicability."

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

5. Page 27, line 7.

Following: line 6

Insert: "(2) [Section 2] applies to license applications postmarked on or after July 1, 2004."

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And, as amended, be concurred in. Report adopted.

HB 179, be amended as follows:

3/18/2003

1. Title, page 1, line 6.

Following: "CAPTIVE"

Insert: "AND BRANCH CAPTIVE"

2. Title, page 1, line 11.

Following: the first "INSURANCE"

Insert: ", PROPERTY INSURANCE, CASUALTY INSURANCE, LIFE INSURANCE, DISABILITY INCOME INSURANCE, AND HEALTH INSURANCE"

Following: "COVERAGE;"

Insert: "DEFINING "DISABILITY INCOME INSURANCE"; REQUIRING CAPTIVE INSURANCE COMPANIES TO FILE REPORTS WITH THE COMMISSIONER OF INSURANCE; REQUIRING CAPTIVE INSURANCE AND BRANCH BUSINESS COMPANIES TO PAY A TAX ON PREMIUMS;"

3. Title, page 1, line 13.

Following: "33-28-105,"

Insert: "33-28-107, 33-28-108, 33-28-201,"

4. Page 3, line 4.

Strike: "(1)"

Following: "a"

Insert: "sponsored"

5. Page 3, line 5.

Strike: "or"

6. Page 3, line 6.

Following: "chapter"

Insert: ", or an insurance producer licensed under chapter 17 of this title and approved by the commissioner"

7. Page 3, line 7.

Following: line 6

Strike: subsection (2) in its entirety

8. Page 5, line 3.

Following: line 2

Insert: "NEW SECTION. **Section 7. Disability income insurance.** "Disability income insurance" means an individual or group policy of insurance that primarily provides payment to or for the benefit of the policyholder or certificate holder based, in whole or in part, upon lost wages or other earned income or business or financial losses as a result of an inability to work due to sickness, injury, or a combination of sickness and injury."

Renumber: subsequent sections

9. Page 5, line 10.

Following: "year"

Insert: "unless the 1-year requirement is waived by the commissioner"

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10. Page 5, line 20.

Following: line 19

Insert: "(4) "Branch business" means any insurance business transacted by a branch captive insurance company in this state.

(5) "Branch captive insurance company" means any foreign captive insurance company licensed by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.

(6) "Branch operations" means any business operations of a branch captive insurance company in this state."

Renumber: subsequent subsections

11. Page 5, line 23.

Following: line 22

Insert: "(8) "Cash equivalent" means any short-term, highly liquid investment that is:

(a) readily convertible to known amounts of cash; and

(b) so near to its maturity that it presents insignificant risk of changes in value because of changes in interest rates. Only an investment with an original maturity of 3 months or less qualifies as a cash equivalent."

Renumber: subsequent subsections

12. Page 5, line 26.

Following: line 25

Insert: "(10) "Foreign captive insurance company" means any captive insurance company formed under the laws of any jurisdiction other than this state."

Renumber: subsequent subsections

13. Page 7, line 10.

Following: "provide"

Strike: "property and casualty insurance"

Insert: "property insurance, casualty insurance, life insurance, disability income insurance, and health insurance coverage as defined in 33-22-140"

14. Page 7, line 21.

Following: "health"

Strike: "or" through "life"

Following: "insurance"

Insert: "coverage, unless the captive insurance company is a pure captive insurance company"

15. Page 10, lines 8 and 9.

Following: "\$750,000" on line 8

Strike: remainder of line 8 through "million" on line 9

Following: ";

Strike: "and"

16. Page 10, line 10.

Following: "million"

Insert: ";

(e) in the case of a branch captive insurance company, not less than the applicable amount of capital and surplus required in subsections (1)(a) through (1)(d), as determined based upon the organizational form of the foreign captive insurance company"

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17. Page 10, line 13.

Following: "cash"

Insert: ", cash equivalent,"

18. Page 10, line 16.

Following: line 15

Insert: "(4) Despite the requirements of subsection (1), a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a license unless it possesses and maintains unimpaired paid-in capital and surplus of \$1 million.

(5) In the case of a branch captive insurance company, security in an amount not less than the minimum capital and surplus required in this section must be jointly held by the commissioner and the branch captive insurance company in a bank of the federal reserve system approved by the commissioner."

19. Page 12, line 20.

Following: line 19

Insert: "(10) With respect to a branch captive insurance company, the foreign captive insurance company shall petition and request that the commissioner issue a certificate that finds that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the foreign captive insurance company, the licensing and maintenance of the branch operation will promote the general good of the state. The foreign captive insurance company may apply to the secretary of state for a certificate of authority to transact business in this state after the commissioner's certificate is issued."

20. Page 12, line 21.

Following: line 20

Insert: "**Section 12.** Section 33-28-107, MCA, is amended to read:

"33-28-107. Reports and statements. (1) A captive insurance company is not required to make an annual report except as provided in this section.

(2) (a) On or before March 1 of each year, each captive insurance company shall submit to the commissioner a report of its financial condition in a form and manner as required by the commissioner, verified by oath of two of its executive officers.

(b) Each captive insurance company shall report using generally accepted accounting principles, unless the commissioner requires the use of statutory accounting principles, with any necessary or useful modifications or additions required by the commissioner. The commissioner may also require the report to be supplemented by additional information.

(c) On or before March 1 of each year, each branch captive insurance company shall submit to the commissioner a copy of all reports and statements required to be filed under the laws in which the foreign captive insurance company is formed, verified by oath of two of its executive officers. If the commissioner is satisfied that the annual report filed by the foreign captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the foreign captive insurance, the commissioner may waive the requirement for completion of the captive annual statement for business written in the foreign jurisdiction."

Insert: "**Section 13.** Section 33-28-108, MCA, is amended to read:

"33-28-108. Examinations and investigations. (1) (a) At least once in 3 years, or more frequently if the commissioner considers it prudent, the commissioner or some competent person appointed by the commissioner shall visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with the provisions of this chapter.

(b) The commissioner, upon application and in the commissioner's discretion, may enlarge the 3-year period to 5 years if the captive insurance company is:

(i) subject to a comprehensive annual audit during the 5-year period of a scope satisfactory to the commissioner; and

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(ii) the audit is conducted by independent auditors approved by the commissioner.

(c) The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(5)(a) Except as provided in subsection (5)(b), the provisions of this section apply to all business written by a captive insurance company.

(b) The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(c) to the satisfaction of the commissioner."

Insert: "Section 14. Section 33-28-201, MCA, is amended to read:

"33-28-201. Tax on premiums collected. (1) (a) Each captive insurance company shall pay to the commissioner, on or before March 1 of each year, a tax on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company in this state during the year ending December 31, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b) The tax on direct premiums collected in this state must be calculated as follows:

(i) 0.4% on the first 20 million dollars;

(ii) 0.3% on the next 20 million dollars;

(iii) 0.2% on the next 20 million dollars; and

(iv) 0.075% on each subsequent dollar collected.

(2) (a) Each captive insurance company shall pay to the commissioner on or before March 1 of each year a tax on assumed reinsurance premiums.

(b) A reinsurance tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection (1).

(c) A reinsurance premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurance company.

(d) The amount of the reinsurance tax must be calculated as follows:

(i) 0.225% on the first 20 million dollars of assumed reinsurance premiums;

(ii) 0.150% on the next 20 million dollars of assumed reinsurance premiums; and

(iii) 0.050% on each subsequent dollar of assumed reinsurance premiums.

(3) If the aggregate taxes to be paid by a captive insurance company calculated under subsections (1) and (2) amount to less than \$5,000 in any year, the captive insurance company shall pay a tax of \$5,000 for that year.

(4) Two or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company.

(5) For the purposes of this section, "common ownership and control" means:

(a) in the case of stock corporations, the direct or indirect ownership of 80% or more of the outstanding voting

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stock of two or more corporations by the same shareholder or shareholders; and

(b) in the case of mutual corporations, the direct or indirect ownership of 80% or more of the surplus and the voting power of two or more corporations by the same member or members.

(6) Only the branch business of a branch captive insurance company is subject to taxation under the provisions of this section."

Renumber: subsequent sections

21. Page 12, line 22.

Following: "The"

Insert: "definitions of property insurance provided in 33-1-210, casualty insurance provided in 33-1-206, life insurance provided in 33-1-208, health insurance coverage provided in 33-22-140, and disability income insurance provided in [section 7], the"

22. Page 12, line 30.

Following: "instruction."

Insert: "(1)"

23. Page 13, line 3.

Following: line 2

Insert: "(2) [Section 7] is intended to be codified in Title 33, chapter 1, part 2, and the provisions of Title 33, chapter 1, part 2, apply to [section 7]."

"NEW SECTION. Section 17. Coordination instruction. If House Bill No. 145 is passed and approved and includes [section 5] defining "disability income insurance", then [section 7 of this act] is void and the reference to "[section 7]" in [section 15 of this act], amending 33-28-207, is changed to "[section 5 of House Bill No. 145]".

And, as amended, be concurred in. Report adopted.

HB 182, be concurred in. Report adopted.

HB 312, be concurred in. Report adopted.

HJR 20, be concurred in. Report adopted. 3/13/2003

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 3/18/2003

HB 285, be amended as follows:

1. Title, line 14.

Following: "37-20-302,"

Insert: "37-21-302,"

Following: "37-23-205,"

Insert: "37-24-308,"

Following: "37-25-307,"

Insert: "37-26-201, 37-27-105,"

2. Title, line 15.

Following: "37-32-305,"

Insert: "37-34-201,"

3. Title, line 17.

Strike: the first "AND"

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Following: "37-72-306,"
Insert: "AND 50-6-203,"

4. Title, line 18.

Following: "DATE"
Insert: "AND A RETROACTIVE APPLICABILITY DATE"

5. Page 17.

Following: line 16.

Insert: "**Section 29.** Section 37-21-302, MCA, is amended to read:

"37-21-302. Registered dietitian -- qualifications. ~~No~~ A person may not use, in connection with ~~his~~ the ~~person's~~ name or place of business, the term "registered dietitian" or represent in any way that ~~he~~ the person is a registered dietitian unless ~~he~~ the person:

(1) has been granted, prior to October 1, 1983, the right to use the term "registered dietitian" by an authorized agency; or

(2) (a) has fulfilled all the requirements set forth in 37-21-301(2);

(b) has satisfactorily completed an examination for registered dietitians administered by an authorized agency; and

(c) except as provided in [section 2], has satisfactorily completed, ~~from time to time, such~~ the continuing education requirements as may be established by an authorized agency.""

Renumber: subsequent sections

6. Page 18.

Following: line 14

Insert: "**Section 32.** Section 37-24-308, MCA, is amended to read:

"37-24-308. Renewal of license. (1) Each license issued under this chapter is subject to annual renewal on the date set by department rule upon the payment of a renewal fee and expires unless renewed in the manner prescribed by the rules of the board. The board may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules, but a late renewal of a license may not be granted more than 5 years after its expiration.

(2) This section may not be interpreted to conflict with [section 2].""

Renumber: subsequent sections

7. Page 18.

Following: line 23

Insert: "**Section 34.** Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;

(4) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

(5) adopt rules that set nonrefundable fees, commensurate with costs, for application, examination, licensure, and other administrative services;

(6) approve naturopathic medical colleges as defined in 37-26-103;

(7) issue certificates of specialty practice;

(8) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice

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of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301; ~~and~~

(9) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301; and

(10) adopt rules to implement the provisions in [section 2].""

Insert: "Section 35. Section 37-27-105, MCA, is amended to read:

"37-27-105. General powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board ~~shall have~~ has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;

(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989;

(c) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

(d) the development of eligibility criteria for client screening by direct-entry midwives in order to achieve the goal of providing midwifery services to women during low-risk pregnancies;

(e) the development of procedures for the issuance, renewal, suspension, and revocation of licenses consistent with the provisions in [section 2];

(f) the adoption of disciplinary standards for licensees;

(g) the development of standardized informed consent and reporting forms;

(h) the adoption of ethical standards for licensed direct-entry midwives;

(i) the adoption of supporting documentation requirements for primary birth attendants; and

(j) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201.""

Renumber: subsequent sections

8. Page 20.

Following: line 9

Insert: "Section 40. Section 37-34-201, MCA, is amended to read:

"37-34-201. Powers and duties of the board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of a license application procedure and acceptable certifications for each category of license;

(b) the establishment of license fees commensurate with actual costs;

(c) the establishment of criteria for educational requirements that, at a minimum, meet the standards set forth in 37-34-303;

(d) the development of procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses consistent with the provisions in [section 2];

(e) the adoption of disciplinary standards for licensees;

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(f) the establishment of hearing procedures; and
(g) a requirement that the supervisor of a clinical laboratory technician be accessible at all times that testing is being performed by the technician in order to provide onsite, telephonic, or electronic consultation.""

Renumber: subsequent sections

9. Page 29.

Following: line 11

Insert: "**Section 60.** Section 50-6-203, MCA, is amended to read:

"50-6-203. Rules. (1) The board, after consultation with the department of public health and human services, the department of justice, and other appropriate departments, associations, and organizations, shall adopt rules of the board implementing this part, including but not limited to training and certification of emergency medical technicians and administration of drugs.

(2) The board may, by rule, establish various levels of emergency medical technician certification and shall specify for each level the training requirements, acts allowed, recertification requirements, and any other requirements regarding the training, performance, or certification of that level of emergency medical technician that it considers necessary, subject to the provisions of [section 2]."

Renumber: subsequent sections

10. Page 29.

Following: line 19

Insert: "**NEW SECTION. Section 63. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to occurrences after December 31, 2002."

And, as amended, be concurred in. Report adopted.

HB 573, be amended as follows:

1. Page 1, line 21.

Following: "guardian."

Insert: "Written documentation of the training received by the parent-designated adult must be filed with the school district."

And, as amended, be concurred in. Report adopted.

HB 656, be concurred in. Report adopted.

HJR 10, be concurred in. Report adopted.

HJR 11, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

3/18/2003

HB 60, be concurred in. Report adopted.

HB 176, be concurred in. Report adopted.

HB 236, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

3/19/2003

HB 30, be concurred in. Report adopted.

HB 185, be concurred in. Report adopted.

HB 237, be amended as follows:

1. Title, page 1, line 5.

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Following: "MUFFLER;"

Insert: "ALLOWING USE OF AN ENGINE COMPRESSION BRAKE DEVICE EQUIPPED WITH A MUFFLER;"

2. Page 1, line 10.

Following: "device"

Insert: "-- use"

Following: "."

Insert: "(1)"

3. Page 1, line 13.

Insert: "(2) An operator of a commercial motor vehicle that has an engine compression brake device with a factory-installed muffler or an equivalent after-market muffler may not be prohibited from using the engine compression brake device."

And, as amended, be concurred in. Report adopted.

HB 711, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

3/18/2003

HB 17, be amended as follows:

1. Page 3, line 16.

Following: line 15

Insert: "NEW SECTION. Section 3. Coordination instruction. If Senate Bill No. 444 and [this act] are both passed and approved, then [section 10 of Senate Bill No. 444], amending 52-3-825, is void."

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 40, be amended as follows:

1. Page 1, line 17.

Following: "offense."

Insert: "If the stop is for a violation under Title 61, unless emergency circumstances exist or the officer has reasonable cause to fear for the officer's own safety or for the public's safety, the officer shall as promptly as possible inform the person of the reason for the stop."

2. Page 1, line 20.

Strike: "demand"

Insert: "request"

Following: "address"

Strike: " "

Insert: "and"

Following: "actions"

Strike: " "

3. Page 1, line 21.

Strike: "in"

Insert: "the driver of"

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Following: "vehicle,"

Insert: "demand"

4. Page 1, line 28.

Insert: "(3) A peace officer acting under subsection (2) while the peace officer is not in uniform shall inform the person as promptly as possible under the circumstances and in any case before questioning the person that the officer is a peace officer."

And, as amended, be concurred in. Report adopted.

HB 199, be amended as follows:

1. Page 2, line 13.

Following: "(b)"

Insert: "if the defendant pleaded guilty or was convicted,"

2. Page 3, line 13.

Following: "(b)"

Insert: "if the defendant pleaded guilty or was convicted,"

3. Page 4, line 5.

Following: "(b)"

Insert: "if the defendant pleaded guilty or was convicted,"

4. Page 5, line 20.

Following: line 19

Insert: "NEW SECTION. Section 8. Coordination instruction. If House Bill No. 215 and [this act] are both passed and approved, then [section 7 of this act], amending 61-5-216, is amended to read: **"Section 7.** Section 61-5-216, MCA, is amended to read:

"61-5-216. Reinstatement of license. Upon receipt of notification from the court that the operator has appeared, posted the bond, or paid the fine, costs, or restitution amounts and has paid the administrative fee required under 61-5-214 and, if the reinstatement fee required under 61-2-107 or [section 1 of House Bill No. 215] has been paid, the department shall ~~immediately~~ reinstate the license, unless the operator otherwise is not entitled to reinstatement."""

And, as amended, be concurred in. Report adopted.

HB 220, be amended as follows:

1. Page 4, line 12.

Following: "to the"

Strike: "board of crime control"

Insert: "office of victims services in the department of justice"

2. Page 5, line 3 through line 6.

Following: "parole" on line 3

Strike: remainder of line 3 through "expired" on line 6

3. Page 11, line 26.

Following: line 25

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Insert: "NEW SECTION. Section 9. Coordination instruction. If Senate Bill No. 10 and [this act] are both passed and approved, then [section 92] of Senate Bill No. 10, amending 46-18-242, is void."

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 284, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

3/18/2003

SB 296, introduced bill, be amended as follows:

1. Page 1, line 25.

Strike: "or" through "greater"

2. Page 1.

Following: line 27

Insert: "(iii) for city offices having an annual salary of more than \$2,500, \$50 or 1.5% of the total annual salary, whichever is greater;"

Renumber: subsequent subsections

3. Page 2, line 6.

Following: the second "committee."

Insert: "a ballot issue committee that is not a state ballot issue committee, or an incidental committee,"

4. Page 2, line 9.

Following: "A"

Insert: "state"

Following: "committee"

Insert: "formed by a political party organization"

5. Page 2, line 10.

Strike: "\$10"

Insert: "\$100"

Following: ";"

Insert: "All other political party committees shall, upon formation and annually before February 15 of each year, pay to the office of the commissioner of political practices a fee of \$25."

6. Page 2, line 15.

Strike: "(1)(a)(iii)"

Insert: "(1)(a)(iv)"

7. Page 2.

Following: line 17

Insert: "(4) Of a fee paid under subsection (1)(a)(iii), \$30 or 1.25% of the salary paid to the office, whichever is greater, must be retained by the county."

Renumber: subsequent subsection

8. Page 2, line 19.

Following: "(3)"

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Insert: "or (4)"

And, as amended, do pass. Report adopted.

SB 453, do pass. Report adopted.

SB 469, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "COUNTY"

Insert: "OR DISTRICT"

2. Title, page 1, line 8.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE"

3. Page 1, lines 24 and 25.

Strike: "the amount" on line 24 through "year" on line 25

Insert: "a taxpayer intends to protest the taxpayer's current year property value and the taxpayer's property tax liability in the county for the previous year was at least \$250,000 and the amount to be protested is greater than \$20,000"

Strike: "June 1" on line 25

Insert: "August 15"

4. Page 1, line 28.

Strike: "5%"

Following: "year."

Insert: "If the notification is not made when required, the appeal may continue but a tax or fee may not be refunded as a result of the appeal. The department must include language regarding the notification on the assessment notices required in 15-7-111 and Title 15, chapter 23."

5. Page 3.

Following: line 30

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2002."

And, as amended, do pass. Report adopted.

HB 441, be concurred in. Report adopted.

HB 627, be concurred in. Report adopted.

HJR 34, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 14, 2003

The Honorable Bob Keenan
President of the Senate

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State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Due to the revocation of HB 474 in the November 2002 election, this letter serves to advise you that the following names are withdrawn as appointments to the Montana Power Authority, which no longer exists:

Gary Aklestad	Steve Browning
Gary Buchanan	Karen Fagg
Kathy Ogren	Lt. Governor Karl Ohs
Jean Turnage	

If you have any questions regarding this change, please feel free to contact Susan Ames, Boards and Commissions Advisor, at 444-0575

Sincerely,

JUDY MARTZ
Governor

March 10, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena MT 59620

Dear President Keenan:

Attached is our second list of board appointments not yet confirmed by the Montana Legislature. We have supplied the following information for each member:

Board Name
Member Name
Member Address and Phone Numbers
Brief Member Biography
Position Requirement

If I or my staff can be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

JUDY MARTZ
Governor

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**Senate Confirmation Report - 2
2003**

Board of Chiropractors

MCA 2-15-1737

Dr. Pamela Blanchard
411 13th Ave. S.
Great Falls, MT 59405
HPH: 452-5638
BPH: 727-6331

Appt: 02/05/03
Term: 01/01/06
Qual: Chiropractor

Dr. Blanchard received her Doctor of Chiropractic degree in 1985 from the Northwestern College of Chiropractic and has had involvement with both the Montana and American Chiropractic Association. In 1992 she became the owner of the Family Chiropractic Clinic in Great Falls.

Jo Ausk
P.O. Box 421
Terry, MT 59349
HPH: 635-5717
BPH: 486-5503

Appt: 02/05/03
Term: 01/01/06
Qual: Public Member

Jo has worked with the Postal Service for over twenty-one years and has been the Postmaster for Fallon County for the past seventeen years. Jo has served three terms on the Terry School Board and in 1990 she was named Prairie County "First Lady.

Board of Horseracing

MCA 2-15-3106

Tim Donnelly
HC 30, Box 8231
Miles City, MT 59301
HPH: 232-6286
BPH: 232-4920

Appt: 01/31/03
Term: 01/20/06
Qual: Representative of District 1

Tim is currently the assistant wrestling coach at Custer County High School. He has served on the school board and many sports boards in the Miles City area. He has extensive knowledge of horses and is interested in the horseracing industry and is currently the vice chairman of the Board of Horseracing.

Barbara Cole
Box 835
Shelby, MT 59474
HPH: 434-5724
BPH: 434-5724

Appt: 01/31/03
Term: 01/20/06
Qual: Representative of District 3

Barbara earned her Bachelor of Science in Elementary Education from Montana State University Billings in 1970. She has worked with the public for over thirty years in various vocations from juvenile probation officer to elementary teacher. Barbara's goal is to maintain and develop Montana's equine industry in the field of racing as well as gaining recognition of the industry as a whole.

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Commission for Human Rights

MCA 2-15-1706

Jack Copps
P.O. Box 161
Seeley Lake, MT 59868
HPH: 677-2883
BPH: 677-2883

Appt: 02/25/03
Term: 01/01/07
Qual: Public Member

Jack received his B.S. degree in 1960 and his Masters degree in 1970 from Black Hills State College in Spearfish, South Dakota. He served in various top-level administrative posts in the Montana educational arena from 1960 through 1996. His community involvement includes Kiwanis, Lions and past-president of the Jaycees, Elks, Rotary and the Helena Chamber of Commerce. Jack has also served on the hospital board in Poplar, Helena and most currently, Seeley Swan.

Ryan Rusche
P.O. Box 27
Wolf Point, MT 59201
HPH: 392-5582
BPH: 768-5155

Appt: 02/25/03
Term: 01/01/07
Qual: Public Member

Ryan was raised on the family farm and ranch north of Wolf Point. After high school he attended Carroll College and received his law degree from the University of Montana. While at Carroll he had the opportunity to volunteer for the Human Rights Commission. After law school Ryan returned to Wolf Point and now works as an attorney for the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

Board of Labor Appeals

MCA 2-15-1704

Jerome Loendorf
P.O. Box 1319
Helena, MT 59624
HPH: 443-3551
BPH: 442-6350

Appt: 02/19/03
Term: 01/01/07
Qual: Attorney

Jerry graduated from Carroll College in 1961 with a Bachelor of Arts Degree in Business Administration. He received a J.D. Degree from the University of Montana School of Law in 1964. Jerry's law firm dissolved in 2002, and he is now a sole practitioner. He has been appointed as Chairman of the Board of Labor Appeals.

Board of Livestock

MCA 2-15-3102

George Hammond
Box 363
Hardin, MT 59034
HPH: 592-3553
BPH: 592-3553

Appt: 03/01/03
Term: 03/01/09
Qual: Cattle Producer

George and his wife own and operate Hammond Cattle Co., a 500 head cow/calf/yearling operation along with small grain and hay production, located in Big Horn County. He is the past president of the Montana Stockman's Assn. and has been on the board of the Montana Beef Council since 1987. He serves on the board of directors of the National Cattlemen's Beef Assn.

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Meg Smith
P.O. Box 82
Divide, MT 59727
HPH: 835-3441
BPH: 835-3441

Appt: 03/01/03
Term: 03/01/09
Qual: Cattle Producer

Meg is part owner of Smith 6-S Livestock, a family ranch that is a cow/calf/yearling operation. She received a B.A. in agriculture production and range science from MSU in 1980. She serves on the board for the National Society for Range Management and is a member of the Montana Stockgrowers Assn.

Board of Medical Examiners

MCA 2-15-1731

Dwight Thompson
P.O. Box 2911
Harlowton, MT 59036-2911
HPH: 632-5864
BPH: 632-4343

Appt: 02/24/03
Term: 09/01/05
Qual: Physician Assistant-Certified

Dwight has been a Physician Assistant since 1990, with the last 10 years in a small rural practice in Harlowton. He is also a preceptor for the Rocky Mountain College Physician Assistant Program and received his training at the University of Washington.

Dr. James Upchurch
PHS Indian Hospital
Crow Agency, MT 59022
HPH: 665-2699
BPH: 638-3309

Appt: 02/24/03
Term: 09/01/03
Qual: Doctor of Medicine

Dr. Upchurch has been the medical director of the Big Horn County Advanced Life Support Ambulance in Hardin since 1986 and the Emergency Medical Services director of the Billings Area Indian Health Service for fourteen years. Dr. Upchurch holds certification as an Emergency Medical Technician: Paramedic through the National Registry of Emergency Medical Technicians and is a certified instructor in Advanced Trauma Life Support.

Board of Occupational Therapy Practice MCA 2-15-1749

Delores Gilbert
P.O. Box 1228
Sidney, MT 59270
HPH: 482-2164
BPH: 482-3744

Appt: 02/05/03
Term: 12/31/06
Qual: Public Member

“Dee” is the customer service assistant of the Pamida store in Sidney. She is also the vice president and office manager of their family owned business. Dee’s medical history has given her first-hand experience with occupational therapists while recovering from knee and hip replacement surgeries.

Elsbeth Richards
2827 Fort Missoula Road
Missoula MT 59804

Appt: 02/05/03
Term: 12/31/06
Qual: Occupational Therapist

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HPH: 721-3528
BPH: 728-4100

Elsbeth has been an occupational therapist for over thirty-five years, practicing most of those years. She is presently the Director of Rehabilitation Services at Community Medical Center in Missoula, where she has been employed since 1981. She is currently the chairwoman of the Board of Occupational Therapy.

Board of Pardons and Parole

MCA 2-15-2302

Ken Peterson
1645 Parkhill Dr., Suite 6
Billings, MT 59102
HPH: 656-8297
BPH: 252-6679

Appt: 02/03/03
Term: 01/01/07
Qual: Attorney

Ken received his law degree from the University of Montana. While attending law school he received a Ford Foundation Grant that enabled him to work with inmates at Montana State Prison and the Montana Supreme Court. He entered private practice in 1967 and represents individual and businesses in State and Federal trial and appellate Courts in both Montana and Washington state. Ken has represented persons charged with criminal violations in both the State and Federal Systems. He is currently the chairman of the Board of Pardons and Parole.

Don Hargrove
P.O. Box 1
Belgrade, MT 59714
HPH: 587-1373
BPH: 587-1373

Appt: 02/03/03
Term: 01/01/07
Qual: Auxiliary Member

Don is an advisor to the Gallatin County Criminal Justice Coordinating Council. In 1998 he attended the national conference on violent offenders that was held in Los Angeles, CA. Don served for 5 years as a civilian contract advisor to the Colombian National Narcotics Police with the US State Department Bureau of International Narcotic Matters.

Board of Personnel Appeals

MCA 2-15-1705

Steve Johnson
200 W. Broadway
Missoula, MT 59802
HPH: 523-4874
BPH: 721-5700

Appt: 02/06/03
Term: 01/01/07
Qual: Representative of management in
collective bargaining

Steve has been a management representative in collective bargaining for more than twelve years. For the past five years he has worked as the Director of Personnel and Labor Relations for Missoula County.

Board of Public Assistance

MCA 2-15-2203

Carole Graham
216 Crestline
Missoula, MT 59803
HPH: 728-4412
BPH: 728-4412

Appt: 02/04/03
Term: 01/01/07
Qual: Public Member

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Carole was County Director of Public Assistance offices in Missoula and Ravalli Counties for twenty years. She was President of the County Directors' Association for 2 terms. Carole is familiar with many of the rules pertaining to public assistance eligibility, issues that are regularly presented to the Board.

Board of Real Estate Appraisers

MCA 2-15-1758

Douglas Mackay
490 N. 31st St., Suite 111
Billings, MT 59101
HPH: 656-9957
BPH: 256-1411

Appt: 02/04/03
Term: 05/01/05
Qual: Certified Real Estate Appraiser

Doug is a Montana State Certified Residential Real Estate Appraiser. In 1996 he formed his own appraisal service. Doug specializes in single family residential report writing with additional experience in appraising condominiums, small income properties and vacant land. He is a Veterans Affairs Panel Appraiser and a Department of HUD Federal Home Administration Rostered Appraiser.

**Board of Social Work Examiners
and Professional Counselors**

MCA 2-15-1744

Judge Richard Simonton
P.O. Box 1249
Glendive, MT 59330
HPH: 365-2200
BPH: 377-2666

Appt: 02/03/03
Term: 01/01/07
Qual: Public Member and an attorney

Judge Simonton has been practicing law for over twenty-nine years. The Judge was the former Dawson County Attorney and former Glendive City Attorney. He is a member of the State Bar of North Dakota, American Bar Association and the State Bar of Montana. In July, 1998 Judge Simonton was appointed to fill a District Judge vacancy in the 7th Judicial District, based in Glendive. He is also Chairman of the Board of Social Work Examiners and Professional Counselors

Antionette Rosell
4200 Rimrock Road
Billings, MT 59106
HPH: 656-4226
BPH: 655-3126

Appt: 02/03/03
Term: 01/01/07
Qual: Licensed Professional Counselor

"Toni" received her B.A. from the University of Montana and earned her M.A. from Columbia University in New York City. She has been a Guidance Counselor/Administrator for over thirty-four years and is very involved in the Billings community service organizations.

Dr. Leta Livoti
P.O. Box 5402
Helena, MT 59604
HPH: 449-4795
BPH: 449-4795

Appt: 02/03/03
Term: 01/01/07
Qual: Licensed professional counselor

Dr. Livoti received her Master of Social Work degree from Eastern Washington University and her Ph.D. in Curriculum

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Development and Instruction from Cornell University. Dr. Livoti has taught for over twenty years at Carroll College and has been in private counselor/consultant practice for nine years. In her capacity as a member of the board, she is in charge of all the continuing education programs for licensing in the State plus preparing an exam for counselor licensees as part of the application process.

March 19, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, MT 59620

Re: House Bill 87

Dear President Keenan and Speaker Mood:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with an amendment House Bill 87, "AN ACT PROHIBITING THE USE OF A PUNCHCARD VOTING SYSTEM IN AN ELECTION AFTER DECEMBER 31, 2003; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE," for the following reason.

House Bill No. 87 to provide a contingent effective date. I recommend that House Bill No. 87 be amended as follows: This act is effective on receipt of federal funds that may be used to reimburse counties currently using punchcard voting systems. And, the Secretary of State shall notify the code commissioner of the date of receipt of the federal funds. Until such time that the money is received, House Bill No. 87 should be on hold.

I have enclosed my amendment to that effect. Please be advised that Representative Jent, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

Governors Amendments
To
House Bill 87

1. Title, line 6.

Strike: "AN IMMEDIATE"

Insert: "A CONTINGENT"

2. Page 1, line 16.

Strike: "passage and approval"

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Insert: "receipt of federal funds that may be used to reimburse counties currently using punchcard voting systems"

Following: "."

Insert: "The secretary of state shall notify the code commissioner of the date of receipt of the federal funds."

March 19, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, MT 59620

Re: House Bill 408

Dear President Keenan and Speaker Mood:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with an amendment House Bill 408, "AN ACT REQUIRING THE PAYMENT OF LOCAL REGISTRAR FEES TO A COUNTY DEPARTMENT IF THE LOCAL REGISTRAR IS A COUNTY EMPLOYEE; AMENDING SECTION 50-15-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE," for the following reason.

I recommend that House Bill No. 408 should be amended to change the word "department" in Section 1, 50-15-107(3)(b) to "county office." Currently, there is a definitional section in this part of the Code, 50-15-101(4), MCA, that defines "department" as the department of public health and human services." I trust that is not the intent of House Bill No. 408.

I have enclosed my amendment to that effect. Please be advised that Representative Peterson, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

Governor's Amendments
To
House Bill 408

1. Page 1, line 19.

Strike: "department"

Insert: "county office"

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MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/18/2003

SB 107, introduced by Roush
SB 118, introduced by DePratu
SB 132, introduced by McNutt
SB 139, introduced by Shea
SB 160, introduced by Cobb
SB 173, introduced by McNutt
SB 253, introduced by Elliott

SB 47 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference Committee** to meet with a like committee from the Senate to confer on House amendments to **SB 47**:

3/18/2003

Representative Mendenhall
Representative Cyr
Representative Morgan

Senate amendments to House bills concurred in:

3/18/2003

HB 154, introduced by Lenhart
HB 156, introduced by Matthews
HB 305, introduced by Peterson

Senate amendments to House joint resolution concurred in:

3/18/2003

HJR 9, introduced by Smith

House bill passed and transmitted to the Senate for concurrence:

3/18/2003

HB 120, introduced by Lenhart

MOTIONS

SB 435 - Senator Butcher moved **SB 435** be taken from the Highways and Transportation committee and rereferred to the committee on Finance. Motion carried.

HB 224 - Senator Grimes moved the Senate reconsider its action in failing to concur in **HB 224** on third reading the previous legislative day. He further moved to request the return of **HB 224** from the House and that it be rereferred to the Senate Judiciary committee. Motion carried.

HB 368 - Senator Thomas moved **HB 368** be taken from third reading this legislative day and rereferred to second reading on the 59th legislative day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

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SB 481, introduced by Black (by request of the Senate Agriculture, Livestock, and Irrigation Standing Committee), referred to Agriculture, Livestock and Irrigation.

The following House bill was introduced, read first time, and referred to committee:

HB 120, introduced by Lenhart (by request of the State Administration and Veterans' Affairs Interim Committee), referred to Finance and Claims.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 246 concurred in as follows:

Yeas: Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Laible, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Zook.
Total 26

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Taylor, Thomas, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 252 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 436 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 621 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 25 concurred in as follows:

Yeas: Anderson, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Bales, Barkus, Butcher, Esp.

Total 4

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

MOTIONS

HB 246 - Senator Sprague moved he be allowed to change his vote on **HB 246**, third reading this day, from yea to nay. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McCarthy in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 109 - House Amendments - Senator McNutt moved House amendments to **SB 109** be concurred in. Motion carried unanimously.

SB 141 - House Amendments - Senator Wheat moved House amendments to **SB 141** be concurred in. Motion carried unanimously.

HB 127 - Senator Grimes moved **HB 127** be concurred in. Motion carried unanimously.

HB 262 - Senator Barkus moved **HB 262** be concurred in. Motion carried unanimously.

Senator Cobb excused at this time.

HB 303 - Senator Bales moved **HB 303** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 35

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 14

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

Senator Cobb present at this time.
Senator Johnson excused at this time.

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HB 373 - Senator Gebhardt moved **HB 373** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 33

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Pease, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 16

Absent or not voting: None.
Total 0

Excused: Johnson.
Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McCarthy moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

HB 540 - Senator Grimes moved **HB 540** be taken from the committee on Judiciary and rereferred to the committee on Education and Cultural Resources. Motion carried.

HJR 12 - Senator Grimes moved **HJR 12** be taken from the committee on Judiciary and rereferred to the committee on Education and Cultural Resources. Motion carried.

Senator Elliott moved to **suspend joint rule** 40-50 for the late drafting and introduction of a bill designating a Montana highway, or a portion of a Montana highway, as The Purple Heart Trail, in honor of those who have been wounded or killed in combat while protecting the citizens of the United States of America. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, March 20, 2003. Motion carried.

Senate adjourned at 2:50 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
FIFTY-NINTH LEGISLATIVE DAY**

Helena, Montana
March 20, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Schmidt, excused. Quorum present.

The presiding officer has authenticated the daily journal for the fifty-eighth legislative day.

SPECIAL ORDERS OF THE DAY

Senator Tester introduced his niece, Rebecca Bitz, who entertained the Senate by singing two songs.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 479, SB 480, SB 481.**

Correctly engrossed: **SB 296, SB 385, SB 469, HB 17, HB 40, HB 145, HB 169, HB 179, HB 199, HB 220, HB 237, HB 285, HB 573.**

Correctly enrolled: **SB 26, SB 36, SB 70, SB 75, SB 102, SB 108, SB 122, SB 128, SB 190, SB 202, SB 221, SB 238.**

Signed by the President at 9:00 a.m., March 20, 2003: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 68, SB 71, SB 88, SB 94, SB 144.**

Signed by the Secretary of the Senate at 9:30 a.m., March 20, 2003: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 68, SB 71, SB 88, SB 94, SB 144.**

Signed by the Speaker at 10:00 a.m., March 20, 2003: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 68, SB 71, SB 88, SB 94, SB 144.**

Delivered to the Governor for approval at 11:25 a.m., March 20, 2003: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 68, SB 71, SB 88, SB 94, SB 144.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):

3/17/2003

HB 420, be concurred in. Report adopted.

HJR 17, be amended as follows:

1. Page 2, line 4.

Strike: "and"

2. Page 2, line 5.

Following: "harmonized"

Insert: "; and

(f) health requirements for imports must be strictly adhered to and utmost caution must be used to protect the U.S. cattle industry from bovine spongiform encephalopathy (BSE), foot-and-mouth disease, bovine tuberculosis, and other highly transmissible diseases"

And, as amended, be concurred in. Report adopted.

BUSINESS AND LABOR (Mahlum, Chairman):

3/19/2003

HB 122, be concurred in. Report adopted.

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HB 174, be concurred in. Report adopted.

HB 315, be amended as follows:

1. Title, page 1, line 5.

Strike: "A CONTRACTOR"

Insert: "AN EMPLOYER"

2. Title, page 1, line 8.

Strike: "CONTRACTOR"

Insert: "EMPLOYER"

3. Page 2, line 12.

Strike: "A contractor"

Insert: "An employer"

4. Page 2, line 15.

Strike: "contractor"

Insert: "employer"

And, as amended, be concurred in. Report adopted.

HB 319, be concurred in. Report adopted.

FISH AND GAME (Sprague, Chairman):

3/19/2003

HB 63, be concurred in. Report adopted.

HB 129, be concurred in. Report adopted.

HB 157, be amended as follows:

1. Title, line 8.

Following: "MONTANA;"

Insert: "PROVIDING THAT MIGRATORY GAME BIRD HUNTERS MUST BE REPRESENTED ON THE
ADVISORY COUNCIL THAT REVIEWS PROPOSALS FOR EXPENDITURE OF THE FUNDS;"

2. Page 1, line 20.

Strike: "sports-interested persons"

Insert: "migratory game bird hunters"

And, as amended, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

3/20/2003

HB 480, be amended as follows:

1. Title, line 5.

Following: "ACCIDENTS;"

Insert: "INCREASING THE RATE AT WHICH FINES MAY BE COMMUTED BY JAIL TIME;"

2. Page 1, line 18 through line 26.

Strike: subsections (1) and (2) in their entirety

Insert: "(1) A person violating any provision of 61-7-104 through 61-7-110 or 61-7-112 through 61-7-114 is guilty of

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a misdemeanor. Upon a first conviction, the offender shall be punished by a fine of not less than \$200 or more than \$300 or by imprisonment for not more than 20 days. For a second conviction within 1 year of the first conviction, the offender shall be punished by a fine of not less than \$300 or more than \$400, by imprisonment for not more than 30 days, or both. Upon a third or subsequent conviction within 1 year of the first conviction, an offender shall be punished by a fine of not less than \$400 or more than \$500, by imprisonment for not more than 6 months, or both."

Renumber: subsequent subsection

And, as amended, be concurred in. Report adopted.

HB 618, be amended as follows:

1. Title, line 6.

Following: "DRUGS;"

Insert: "PROVIDING THAT HALF OF THE FEES COLLECTED BE DEPOSITED INTO THE GENERAL FUND AND THE OTHER HALF INTO AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND;"

2. Page 1, line 16.

Following: "deposit"

Insert: "one-half of"

3. Page 1, line 16 through line 17.

Following: "fund" on line 16

Strike: "." on line 16 through "appropriated and" on line 17

Insert: "and the other half in an account in the state special revenue fund to be"

4. Page 1, line 19.

Following: line 18

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 37 and [this act] are both passed and approved, then [this act] is void."

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

3/19/2003

HB 298, be concurred in. Report adopted.

HB 416, be concurred in. Report adopted.

HB 610, be amended as follows:

1. Page 1, line 19.

Following: "a"

Insert: "cumulative"

Strike: "IN ANY YEAR"

Insert: "within a 12-month period"

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

3/20/2003

HB 700, be concurred in. Report adopted.

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STATE ADMINISTRATION (Cobb, Chairman):
HB 190, be amended as follows:

3/20/2003

1. Title, page 1, line 24.

Following: "13-13-214,"

Insert: "13-13-232,"

2. Title, page 1, line 26.

Following: ":",

Strike: "AND"

Strike: "13-2-112,"

3. Title, page 1, line 27.

Strike: "13-2-207,"

4. Title, page 1, line 28.

Following: "MCA"

Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE"

5. Page 8, line 12.

Following: "registered"

Insert: "and the effect of that registration on identification requirements"

6. Page 9, line 2.

Following: "identification"

Insert: ", including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification,"

Strike: "and current address"

7. Page 9, line 6.

Following: "identification"

Insert: ", including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification,"

Strike: "and current address"

8. Page 19, line 6.

Strike: "and current address"

9. Page 19, lines 7 through 8.

Strike: "or if" on line 7 through "register" on line 8

Insert: ", including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification"

10. Page 19, line 9.

Following: "paycheck,"

Insert: "notice of confirmation of voter registration issued pursuant to 13-2-207,"

11. Page 19.

Following: line 10

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Insert: "(b) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and must be provided with a regular ballot to vote."

Renumber: subsequent subsections

12. Page 19, line 11.

Following: "If"

Insert: "the information provided in subsection (1)(a) differs from information in the precinct register but"

13. Page 19, line 12.

Following: "vote"

Insert: "pursuant to 13-2-512"

14. Page 20, line 6.

Strike: "35"

Insert: "36"

15. Page 20, lines 13 through 14.

Strike: "and current" on line 13 through "enclose" on line 14

Insert: "or"

16. Page 20, line 15.

Following: "paycheck, "

Insert: "notice of confirmation of voter registration issued pursuant to 13-2-207,"

17. Page 20, line 20.

Strike: "35"

Insert: "36"

18. Page 20, line 28.

Strike: "35"

Insert: "36"

19. Page 21, line 15.

Strike: "and address"

Insert: ", including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification"

20. Page 21, lines 15 through 16.

Strike: "or" on line 15 through "current" on line 16

Strike: "also" on line 16

21. Page 21, line 17.

Following: "paycheck."

Insert: "notice of confirmation of voter registration issued pursuant to 13-2-207,"

22. Page 22, line 4.

Strike: "35"

Insert: "36"

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23. Page 22, line 14.

Insert: "(3) If ballots are sent more than 30 days before an election, the election administrator shall include a notice that the voter information pamphlet, when required to be distributed, will be provided pursuant to 13-27-410."

24. Page 22, line 17.

Following: "ballot"

Insert: ", using only a standardized form provided by rule by the secretary of state,"

25. Page 23, line 11.

Strike: "(2)"

Insert: "(3)"

Following: "shall"

Insert: ":

(a)"

26. Page 23, line 12.

Following: "administrator"

Insert: ";

Strike: "or"

Insert: "(b)"

Following: "administrator"

Strike: "."

Insert: "; or

(c) hand the application to a third party for delivery to the election administrator, if the person receiving the ballot application provides to the elector a receipt in a form designated by the secretary of state.

(2)"

Renumber: subsequent subsections

27. Page 24, line 30.

Insert: "**Section 31.** Section 13-13-232, MCA, is amended to read:

"13-13-232. Delivery of ballots, secrecy envelopes, and return envelopes to election judges -- ballots to be rejected. (1) If the absentee ballot is received prior to delivery of the official ballots to the election judges, the election administrator shall compare signatures on the return envelope for validity, open the outer return envelope to determine whether proof of identity is included, process it according to 13-13-241, and then deliver the unopened ~~return~~ secrecy envelope to the judges at the same time that the ballots are delivered. ~~The return envelopes must be opened and the ballots processed according to the procedures described in 13-13-241.~~

(2) If absentee ballots are received after the ballots are delivered to the election judges but prior to the close of the polls, the election administrator shall process the return envelopes according to subsection (1) and shall then immediately deliver the unopened return envelopes to the judges. ~~The return envelopes must be opened and the ballots processed according to the procedures described in 13-13-241.~~

(3) If the election administrator receives an absentee ballot for which an application or request was not made or received as required by this part, the election administrator shall endorse upon the elector's envelope the date and exact time of receipt and the words "to be rejected". Absentee ballots endorsed in this manner must be retained by the election administrator and placed with the proper records when they are returned to the election administrator.""

28. Page 25, line 2.

Strike: "while polls open"

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29. Page 25, line 3.

Strike: "While the polls are open, the election judges may"

Insert: "As soon as an absentee ballot is received, an election administrator shall"

30. Page 25, line 7.

Strike: "judges shall"

Insert: "administrator or election judge shall open the outer return envelope and"

31. Page 25, line 12.

Strike: "35"

Insert: "36"

Following: " : "

Insert: "The election administrator shall notify the absentee elector by mail that the elector's identification information was insufficient and that the elector's ballot will be treated as a provisional ballot until the elector provides sufficient information, pursuant to rules adopted by the secretary of state. The election administrator shall provide a self-addressed return envelope along with the information necessary for the absentee elector to reclassify the provisional ballot as a regular ballot."

32. Page 25, line 15.

Strike: "The"

Insert: "On election day, the"

Strike: "return"

Insert: "secrecy"

33. Page 26, line 8.

Strike: "35"

Insert: "36"

34. Page 27, lines 6 through 8.

Strike: subsection (1) in its entirety

Insert: "(1) To verify eligibility to vote, an elector who casts a provisional ballot in person shall provide information to the election administrator as listed below:

(a) present in person at the office of the election administrator by 5 p.m. on the day after the election a photo identification or other identifying document as described in 13-13-114(1)(a);

(b) send by facsimile or electronic mail by 5 p.m. on the day after the election a copy or scanned document that meets the identification requirements of 13-13-114(1)(a); or

(c) mail a copy or nonreturnable original document described in 13-13-114(1)(a) in a self-addressed return envelope provided by the election administrator. If the elector mails a document, the postmark on the envelope must be for the day of the election or the day following the election.

(2) The election administrator shall determine prior to an election whether an absentee voter has provided sufficient identification to allow a ballot to be counted. If the information is insufficient, the election administrator shall follow procedures described in 13-13-241 to allow an absentee elector who failed to provide proper identifying information in the outer return envelope to verify eligibility to vote. An absentee elector whose ballot is determined to be provisional has until 5 p.m. on the day after the election to provide valid identification information either in person, by facsimile, by electronic mail, or by mail postmarked on the day of the election or the day after the election."

Renumber: subsequent subsections

35. Page 27, line 10.

Strike: "23"

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Insert: "24"

36. Page 31, line 9.

Strike: "13-2-112,"

Strike: "13-2-207,"

37. Page 31, line 18.

Strike: "35"

Insert: "36"

38. Page 31, line 19.

Strike: "35"

Insert: "36"

39. Page 31, line 20.

Insert: "NEW SECTION. **Section 46. Effective date.** [This act] is effective January 1, 2004."

And, as amended, be concurred in. Report adopted.

HB 201, be concurred in. Report adopted.

HB 548, be concurred in. Report adopted.

HJR 30, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

3/20/2003

SB 443, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/19/2003

SB 83, introduced by McGee

SB 84, introduced by Cocchiarella

SB 103, introduced by Laible

SB 121, introduced by Glaser

SB 131, introduced by Barkus

SB 229, introduced by F. Thomas

SB 257, introduced by Cooney

Senate joint resolution concurred in and returned to the Senate:

3/19/2003

SJR 25, introduced by Bohlinger

Senate bills concurred in and returned to the Senate:

3/20/2003

SB 28, introduced by Mangan

SB 172, introduced by McNutt

SB 183, introduced by Bohlinger

SB 216, introduced by Cocchiarella

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Senate joint resolution concurred in and returned to the Senate: 3/20/2003

SJR 3, introduced by Tash

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 3/19/2003

SB 65, introduced by Roush

SB 146, introduced by Anderson

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 3/20/2003

SB 137, introduced by DePratu

House bills passed and transmitted to the Senate for concurrence: 3/19/2003

HB 363, introduced by R. Brown

HB 569, introduced by Gutsche

House bills passed and transmitted to the Senate for concurrence: 3/20/2003

HB 602, introduced by Galvin-Halcro

HB 604, introduced by Gallik

HB 722, introduced by E. Clark

HB 403 - The House **failed to concur** in Senate amendments to **HB 403**, authorized the Speaker to appoint the following **Conference Committee**, and requested the Senate appoint a like committee to confer on Senate amendments to **HB 403**:

3/19/2003

Representative Steinbeisser, Chair

Representative Keane

Representative Lange

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 482, introduced by Bales, Peterson, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 28, introduced by Bohlinger, referred to Education and Cultural Resources.

The following House bills were introduced, read first time, and referred to committees:

HB 363, introduced by R. Brown, referred to Business and Labor.

HB 569, introduced by Gutsche, Harris, referred to Public Health, Welfare and Safety.

HB 602, introduced by Galvin-Halcro, referred to State Administration.

HB 604, introduced by Gallik, Bales, Matthews, A. Olson, referred to Taxation.

HB 722, introduced by E. Clark, Cobb (by request of the House Joint Appropriations Subcommittee on Health and

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Human Services), referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Zook in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 407 - Senator DePratu moved **SB 407** do pass. After discussion, Senator DePratu made a **substitute motion** that **SB 407**, second reading copy, be amended as follows:

1. Page 41, line 5.

Strike: "42"

Insert: "41"

Strike: "2006"

Insert: "2004"

Amendment **adopted** unanimously.

SB 407 - Senator Elliott moved **SB 407**, second reading copy, be further amended as follows:

1. Title, page 1, line 6.

Strike: "ESTABLISHING A CAPITAL GAINS CREDIT;"

2. Title, page 1, line 8 through line 11.

Strike: "CLARIFYING" on line 8 through "DEDUCTION;" on line 11

3. Title, page 1, line 16 through line 17.

Strike: "13-37-218" on line 16 through "15-30-142," on line 17

4. Page 23, line 18 through page 37, line 3.

Strike: section 41 through section 48 in their entirety

Renumber: subsequent sections

5. Page 40, line 23 through line 24.

Strike: subsection (3) in its entirety

6. Page 41, line 3.

Strike: "(1) Except as provided in subsection (2), [this]"

Insert: "[This]"

7. Page 41, line 5.

Strike: subsection (2) in its entirety

8. Page 41, line 7.

Strike: "(1)"

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9. Page 41, line 9.

Strike: "(A)"

Insert: "(1)"

Renumber: subsequent subsections

10. Page 41, line 15.

Strike: subsection (2) in its entirety

Amendment **not adopted** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: McGee, Schmidt.

Total 2

SB 407 - Senator Tester moved **SB 407**, second reading copy, be further amended as follows:

1. Page 2, line 8 through line 12.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent subsections

2. Page 5, line 28.

Strike: "(18)(A)(III)"

Insert: "(16)(a)(iii)"

3. Page 5, line 29.

Strike: "(18)(A)(VIII)"

Insert: "(16)(a)(vii)"

4. Page 6, line 23 through line 27.

Strike: subsection (23) and (24) in their entirety

Renumber: subsequent subsections

5. Page 7, line 21.

Strike: subsection (1)(a) in its entirety

Renumber: subsequent subsections

6. Page 7, line 24.

Strike: subsection (1)(d) in its entirety

Renumber: subsequent subsections

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7. Page 7, line 26.

Strike: subsection (1)(f) in its entirety

Renumber: subsequent subsections

8. Page 8, line 7.

Strike: subsection (3)(a)(i) in its entirety

Renumber: subsequent subsections

9. Page 8, line 10.

Strike: subsection (3)(a)(iv) in its entirety

Renumber: subsequent subsections

10. Page 8, line 1.

Strike: subsection (3)(a)(vi) in its entirety

Renumber: subsequent subsections

11. Page 41, line 5.

Strike: "42"

Insert: "41"

Strike: "2006"

Insert: "2005"

12. Page 41, line 9.

Strike: "(1)(B) AND (3)(A)(II)"

Insert: "(1)(a) and (3)(a)(i)"

13. Page 41, line 12.

Strike: "(1)(C) AND (3)(A)(III)"

Insert: "(1)(b) and (3)(a)(ii)"

14. Page 41, line 15.

Strike: "2003"

Insert: "2004"

Amendment **not adopted** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Butcher, Schmidt.

Total 2

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SB 407 - Senator Stonington moved **SB 407**, second reading copy, be further amended as follows:

1. Title, page 1, line 8.

Following: "REVENUE;"

Insert: "PROVIDING THAT THE CLASS EIGHT PROPERTY TAX REDUCTION TRIGGER IS BASED UPON A 3-YEAR AVERAGE OF INFLATION-ADJUSTED MONTANA WAGE AND SALARY INCOME; PROVIDING THAT THE TRIGGER IS NOT EFFECTIVE UNTIL THE PROPERTY TAX YEAR FOLLOWING THE SUBSEQUENT LEGISLATIVE SESSION;"

2. Title, page 1, line 16.

Following: "13-37-218,"

Insert: "15-6-138,"

3. Page 24, line 4.

Insert: "**Section 43.** Section 15-6-138, MCA, is amended to read:

"15-6-138. (Temporary) Class eight property -- description -- taxable percentage. (1) Class eight property includes:

- (a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(bb);
- (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;
- (c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;
- (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as providers as provided in 15-6-201, and supplies except those included in class five;
- (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;
- (f) special mobile equipment as defined in 61-1-104;
- (g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;
- (h) x-ray and medical and dental equipment;
- (i) citizens' band radios and mobile telephones;
- (j) radio and television broadcasting and transmitting equipment;
- (k) cable television systems;
- (l) coal and ore haulers;
- (m) theater projectors and sound equipment; and
- (n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 3% of its market value.

(5) (a) ~~If~~ Subject to subsection (5)(d), if, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income, ~~is~~ is averaged over the last 3 full year years for which data is available, is at least 2.85% from the prior year, then the tax rate for class eight property will be reduced by 1% each year until the

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tax rate reaches zero.

(b) The department shall calculate the percentage growth in subsection (5)(a) by using the formula $(W/CPI) - 1$, where:

(i) W is the average Montana wage and salary income for the most current available year and the 2 previous years divided by the average Montana wage and salary income for the ~~year~~ 3 years prior to the ~~most current available year~~ years used for determining the current 3-year average; and

(ii) CPI is the average consumer price index for the most current available ~~year~~ 3-year period used in subsection (5)(b)(i) divided by the consumer price index for the ~~year prior to the most current available year~~ previous 3-year period as used in subsection (5)(b)(i).

(c) For purposes of determining the percentage growth in subsection (5)(a), the department shall use the wage and salary data series referred to as the bureau of economic analysis of the United States department of commerce Montana wage and salary disbursements. Inflation must be measured by the consumer price index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(d) A reduction in the tax rate provided for in subsection (5)(a) may not be implemented until the tax year following the year in which the legislature meets in regular session.

(6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from taxation. (Repealed on occurrence of contingency--secs. 27(2), 31(4), Ch. 285, L. 1999.)"

Renumber: subsequent sections

4. Page 41, line 5.

Strike: "42"

Insert: "41"

Strike: "48"

Insert: "49"

Strike: "2006"

Insert: "2004"

5. Page 41, line 15.

Strike: "46"

Insert: "47"

Amendment **adopted** as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 42

Nays: Anderson, Butcher, Laible, McGee, O'Neil, Story, Taylor.

Total 7

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

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SB 407 - Senator Ellingson moved **SB 407**, second reading copy, be further amended as follows:

1. Title, page 1, line 6.

Strike: "ESTABLISHING A CAPITAL GAINS CREDIT;"

2. Page 23, line 18 through line 22.

Strike: section 41 in its entirety

Renumber: subsequent sections

3. Page 40, line 23 through line 24.

Strike: subsection (3) in its entirety

4. Page 41, line 5.

Strike: "42 THROUGH 48"

Insert: "41 through 47"

5. Page 41, line 15.

Strike: "41 AND 43 THROUGH 46"

Insert: "42 through 45"

Amendment **not adopted** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 21

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

SB 407 - Senator Bohlinger moved **SB 407**, second reading copy, be further amended as follows:

1. Page 1, line 26.

Strike: "40"

Insert: "41"

2. Page 3.

Following: line 12

Insert: "(8) (a) "Food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste or nutritional value.

(b) The term does not include alcoholic beverages or tobacco.

(9) "Food sold through vending machines" means food dispensed from a machine or other mechanical device

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that accepts payment."

Renumber: subsequent subsections

3. Page 4, line 14.

Strike: "18"

Insert: "19"

4. Page 5.

Following: line 1

Insert: "(15) (a) "Prepared food" means:

(i) food sold in a heated state or heated by the seller;
(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
(iii) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

(b) The term includes:

(i) soda pop, juices, coffee, tea, milk, milk shakes, and other beverages, other than alcoholic beverages, that are sold for consumption on the premises of the seller; and

(ii) bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, doughnuts, Danish pastry, cakes, tortes, pies, tarts, muffins, bars, or cookies, that are sold for consumption on the premises.

(c) The term does not include:

(i) food that is only cut, repackaged, or pasteurized by the seller; or

(ii) eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer, as recommended by the food and drug administration in chapter 3, part 401.11, of its Food Code so as to prevent food-borne illnesses."

Renumber: subsequent subsections

5. Page 5, line 28 through line 29.

Strike: "(18)(A)(III)" on line 28 through "(18)(A)(VII)" on line 29

Insert: "(21)(a)(iii) through (21)(a)(vii)"

6. Page 7.

Following: line 20

Insert: "(a) 4% on prepared food;

(b) 4% on food sold through vending machines;"

Renumber: subsequent subsections

7. Page 8.

Following: line 6

Insert: "(i) 4% on prepared food;

(ii) 4% on food sold through vending machines;"

Renumber: subsequent subsections

8. Page 8, line 28.

Strike: "40"

Insert: "41"

9. Page 9, line 21.

Strike: "40"

Insert: "41"

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10. Page 10, line 3.

Strike: "40"

Insert: "41"

11. Page 10, line 6.

Strike: "40"

Insert: "41"

Strike: "18"

Insert: "19"

12. Page 10, line 13.

Strike: "40"

Insert: "41"

13. Page 10, line 15.

Strike: "40"

Insert: "41"

14. Page 10, line 17.

Strike: "40"

Insert: "41"

15. Page 11, line 11.

Strike: "18"

Insert: "19"

16. Page 12, line 6.

Insert: "NEW SECTION. Section 12. Nontaxability -- food products. (1) The sale of food or a food service offered or delivered as part of a residential living arrangement lasting more than 30 days and food consumed by a person that is party to the arrangement is exempt from the sales tax and use tax.

(2) The sale of food or a food service offered by the state or a political subdivision of the state, including school districts and postsecondary colleges and universities, is exempt from the sales tax and use tax."

Renumber: subsequent sections

17. Page 13, line 16.

Strike: "40"

Insert: "41"

18. Page 13, line 18.

Strike: "40"

Insert: "41"

19. Page 13, line 24.

Strike: "40"

Insert: "41"

20. Page 14, line 1.

Strike: "40"

Insert: "41"

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21. Page 14.

Following: line 5

Insert: "(b) A vending machine operator who has more than one vending machine location is considered to have only one place of business for the purposes of this section."

Renumber: subsequent subsection

22. Page 14, line 9.

Strike: "40"

Insert: "41"

23. Page 14, line 19.

Strike: "40"

Insert: "41"

24. Page 14, line 24.

Strike: "40"

Insert: "41"

Strike: "28"

Insert: "29"

25. Page 14, line 25.

Strike: "40"

Insert: "41"

26. Page 15, line 3.

Strike: "40"

Insert: "41"

27. Page 15, line 25.

Strike: "40"

Insert: "41"

28. Page 15, line 26.

Strike: "28"

Insert: "29"

29. Page 15, line 27.

Strike: "40"

Insert: "41"

30. Page 15, line 29.

Strike: "18"

Insert: "19"

31. Page 16, line 5.

Strike: "40"

Insert: "41"

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32. Page 16, line 19.

Strike: "40"

Insert: "41"

33. Page 16, line 22.

Strike: "40"

Insert: "41"

34. Page 17, line 5.

Strike: "40"

Insert: "41"

35. Page 17, line 6.

Strike: "40"

Insert: "41"

36. Page 17, line 8.

Strike: "40"

Insert: "41"

37. Page 17, line 26.

Strike: "25"

Insert: "26"

38. Page 18, line 12.

Strike: "25"

Insert: "26"

39. Page 19, line 3.

Strike: "40"

Insert: "41"

40. Page 19, line 7.

Strike: "25"

Insert: "26"

41. Page 19, line 26.

Strike: "40"

Insert: "41"

42. Page 19, line 27.

Strike: "40"

Insert: "41"

43. Page 20, line 12.

Strike: "40"

Insert: "41"

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44. Page 20, line 21.

Strike: "40"

Insert: "41"

45. Page 21, line 4.

Strike: "40"

Insert: "41"

46. Page 21, line 6.

Strike: "40"

Insert: "41"

47. Page 21, line 8.

Strike: "40"

Insert: "41"

48. Page 21, line 12.

Strike: "40"

Insert: "41"

Strike: "40"

Insert: "41"

49. Page 21, line 18.

Strike: "40"

Insert: "41"

50. Page 21, line 24.

Strike: "40"

Insert: "41"

51. Page 22, line 14.

Strike: "40"

Insert: "41"

52. Page 22, line 20.

Strike: "40"

Insert: "41"

53. Page 22, line 21.

Strike: "40"

Insert: "41"

54. Page 22, line 26.

Strike: "40"

Insert: "41"

55. Page 23, line 6.

Strike: "40"

Insert: "41"

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56. Page 23, line 10.

Strike: "40"

Insert: "41"

57. Page 23, line 16.

Strike: "40"

Insert: "41"

58. Page 40, line 21.

Strike: "40"

Insert: "41"

59. Page 40, line 22.

Strike: "40"

Insert: "41"

60. Page 40, line 23.

Strike: "41"

Insert: "42"

61. Page 40, line 24.

Strike: "41"

Insert: "42"

62. Page 41, line 5.

Strike: "42 THROUGH 48"

Insert: "43 through 49"

Strike: "2006"

Insert: "2004"

63. Page 41, line 10.

Strike: "(1)(B) AND (3)(A)(II)"

Insert: "(1)(d) and (3)(a)(iv)"

64. Page 41, line 12.

Strike: "(1)(C) AND (3)(A)(III)"

Insert: "(1)(e) and (3)(a)(v)"

65. Page 41, line 15.

Strike: "41 AND 43 THROUGH 46"

Insert: "42 and 44 through 47 "

Amendment **not adopted** as follows:

Yeas: Bales, Bohlinger, Cobb, Cromley, Harrington, Johnson, Kitzenberg, Pease, Stapleton, Stonington, Story, Wheat,
Mr. President.

Total 13

Nays: Anderson, Barkus, Black, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt,

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Glaser, Grimes, Hansen, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Squires, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook.

Total 36

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

SB 407 - Senator Cobb moved **SB 407**, second reading copy, be further amended as follows:

1. Title, line 18.

Following: "DATES"

Strike: "AND"

Insert: ", "

2. Title, line 19.

Following: "DATES"

Insert: ", AND A CONTINGENT VOIDNESS PROVISION"

3. Page 41, line 16.

Insert: "NEW SECTION. Section 62. Contingent voidness. If [this act] and any combination of House Bill No. 360, House Bill No. 363, House Bill No. 444, House Bill No. 616, Senate Bill No. 294, Senate Bill No. 435, and ____ Bill No. ____ [LC 2133] are not passed and approved so that the combination of bills generate at least \$158 million of net general fund revenue, then [this act] is void. The legislative fiscal analyst shall certify to the code commissioner prior to July 1, 2003, whether the required \$158 million of net general fund revenue has been met."

Amendment **not adopted** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

SB 407 - Senator Stonington moved **SB 407**, second reading copy, be further amended as follows:

1. Page 23, line 20.

Strike: "2004"

Insert: "2006"

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Strike: the first "2005"

Insert: "2007"

Strike: the second "2005"

Insert: "2007"

2. Page 41, line 5.

Following: "(2)"

Insert: "(a)"

Strike: "2006"

Insert: "2004"

3. Page 41, line 6.

Insert: "(b) [Section 41] is effective January 1, 2006."

4. Page 41, line 15.

Strike: "41 AND"

5. Page 41.

Following: line 15

Insert: "(3) [Section 41] applies to tax years beginning after December 31, 2005."

Amendment **not adopted** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

SB 407 - Senator Stonington moved **SB 407**, second reading copy, be further amended as follows:

1. Page 23, line 20.

Strike: "2004 AND"

Following: "2005 AND"

Strike: "2% OF THE TAXPAYER'S NET CAPITAL GAINS FOR"

Insert: "succeeding"

Strike: "BEGINNING AFTER 2005"

2. Page 41, line 5.

Following: "(2)"

Insert: "(a)"

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Strike: "2006"

Insert: "2004"

3. Page 41, line 6.

Insert: "(b) [Section 41] is effective January 1, 2005."

4. Page 41, line 15.

Strike: "41 AND"

5. Page 41.

Following: line 15

Insert: "(3) [Section 41] applies to tax years beginning after December 31, 2004."

Amendment **adopted** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, Nelson, Pease, Perry, Roush, Ryan, Shea, Squires, Stapleton, Stonington, Story, Tester, Thomas, Toole, Tropila, Wheat.

Total 31

Nays: Anderson, Bales, Barkus, Black, Curtiss, DePratu, Gebhardt, Glaser, Grimes, McGee, McNutt, O'Neil, Sprague, Tash, Taylor, Zook, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: Butcher, Schmidt.

Total 2

SB 407 - Senator Toole moved **SB 407**, second reading copy, be amended as follows:

1. Title, page 1, line 16.

Following: "PRODUCTS;"

Insert: "PROVIDING FOR A GROSS RECEIPTS TAX ON RETAIL SALES IN EXCESS OF \$20 MILLION IN AN INDIVIDUAL LOCATION; PROVIDING FOR TAX RATES AND THE ALLOCATION OF THE TAX PROCEEDS; PROVIDING FOR THE REPORTING, ADMINISTRATION, AND COLLECTION OF THE TAX;"

2. Page 40, line 6.

Insert: "NEW SECTION. **Section 55. Definitions.** As used in [sections 55 through 64], the following definitions apply:

(1) "Farm implement" means any vehicle, machine, or attachment designed or adapted and used exclusively for agricultural operations and only incidentally operated or used on the highways.

(2) (a) "Gross receipts" means all receipts from retail sales from each specific store within the state, whether in the form of money, credits, or other valuable consideration, received as a result of engaging in or conducting a retail sales business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid, taxes, losses, or any other expense. A retail sales establishment may deduct the cost of employer contributions for retirement benefits and health insurance for employees from gross receipts.

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(b) The term does not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectible accounts written off from time to time, or payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.

(2) "Retail sale" means any transfer of tangible personal property for consideration for any purpose other than for resale, sublease, or subrent.

(3) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus.

(4) (a) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses.

(b) The term does not include farm implements, special mobile equipment, or vehicles.

(5) "Vehicle" means a device in, upon, or by which any person or property may be transported or drawn that is required to be registered or that is subject to a tax or fee imposed under Title 23, chapter 2, parts 5, 6, or 8, or Title 61, chapter 3, part 5. "

Insert: "NEW SECTION. Section 56. Retail sales gross receipts tax. (1) There is a retail sales gross receipts tax. The tax applies to all retail sales of tangible personal property from a single establishment that are in excess of \$20 million each calendar year.

(2) The rate of tax on gross receipts in excess of \$20 million is as follows:

(a) \$20 million to \$30 million, 1%;

(b) amounts in excess of \$30 million up to and including \$40 million, 1.5%; and

(c) amounts in excess of \$40 million, 2%."

Insert: "NEW SECTION. Section 57. Returns -- payment -- authority of department. (1) Each person engaged in a retail sales business within this state or using property within this state that is subject to tax under [sections 55 through 64] shall file a return. Retail sales businesses are subject to the reporting and payment provisions of subsection (3).

(2) (a) On or before January 31 of each year, a return, in a form adopted by the department, with a remittance of the tax owed for the preceding year, must be filed with the department. The filing and the remittance may be done electronically.

(b) The retail sales business and any agent of the business, for the purposes of reporting or paying the gross receipts tax, are subject to the audit and accountability provisions of the department.

(3) (a) For the purposes of the gross receipts tax, a return must be filed by each location of a seller required to pay the tax.

(b) A return must be filed with and payment must be received by the department on or before January 31 for taxes owed for gross receipts on retail sales occurring during the preceding year.

(c) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(d) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

(4) (a) A person required to report and pay to the department a tax under [sections 55 through 64] shall keep records, render statements, make returns, and comply with the provisions of [sections 55 through 64] and the rules prescribed by the department. Each return or statement must include the information required by the rules of the department.

(b) For the purpose of determining compliance with the provisions of [sections 55 through 64], the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(i) require the attendance of a person having knowledge or information relevant to a return;

(ii) compel the production of books, papers, records, or memoranda by the person required to attend;

(iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may

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be jeopardized because of delay;

- (iv) take testimony on matters material to the determination; and
- (v) administer oaths or affirmations."

Insert: "NEW SECTION. Section 58. Allocation of proceeds. Retail sales gross receipt tax proceeds must be allocated, pursuant to 15-1-501, to the state general fund."

Insert: "NEW SECTION. Section 59. Examination of return -- adjustments -- delivery of notices and demands.

(1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess must be paid to the department within 30 days after notice of the amount and demand for payment are mailed or delivered to the person making the return unless the taxpayer files a timely objection as provided in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on the return and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the return.

(3) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be:

(a) sent by mail to the taxpayer at the address given in the taxpayer's return, if any, or to the taxpayer's last-known address; or

(b) served personally upon the taxpayer.

(4) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform dispute review procedure provided in 15-1-211."

Insert: "NEW SECTION. Section 60. Penalties and interest for violations. The provisions of 15-1-216 apply to returns, reports, and failure to pay the tax required under [sections 55 through 64]."

Insert: "NEW SECTION. Section 61. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under [sections 55 through 64].

(b) If a tax imposed by [sections 55 through 64] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a review of the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset."

Insert: "NEW SECTION. Section 62. Limitations. (1) Except in the case of a person that purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions of [sections 55 through 64], a deficiency may not be assessed or collected with respect to a year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date that the return was filed. For purposes of this section, a return filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period to which consent was given."

Insert: "NEW SECTION. Section 63. Refunds -- interest -- limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under [sections 55 through 64] must be filed within 5 years of the date that the return was due, without regard to any extension of time for filing.

(2) (a) Interest on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes in 15-16-102.

(b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim

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is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

(ii) the amount of overpayment and interest does not exceed \$1."

Insert: "NEW SECTION. Section 64. Administration -- rules. The department shall:

(1) administer and enforce the provisions of [sections 55 through 64];

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 55 through 64]; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 55 through 64]."

3. Page 40, line 21.

Following: "40"

Insert: "and 55 through 64"

4. Page 40, line 22.

Following: "40"

Insert: "and 55 through 64"

5. Page 41, line 16.

Insert: "(3) [Sections 55 through 64] apply retroactively, within the meaning of 1-2-109, to retail sales after December 30, 2002."

Amendment **not adopted** as follows:

Yeas: Bohlinger, Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Nays: Anderson, Bales, Barkus, Black, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Butcher, Perry, Schmidt.

Total 3

SB 407 - Senator Cobb moved **SB 407**, second reading copy, be amended as follows:

1. Page 38, line 20.

Strike: "3.2%"

Insert: "2.85%"

2. Page 38, line 22.

Following: "(2)"

Insert: "(a)"

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Following: ~~"deposited"~~

Insert: "except as provided in subsection (2)(b),"

3. Page 38, line 23.

Strike: "and"

4. Page 38.

Following: line 23

Insert: "(b)(i) beginning July 1, 2003 5.73% to the state general fund; and

(ii) beginning July 1, 2003, 86.57% to the prevention and stabilization account provided in [section 14 of House Bill No. 722]; and"

5. Page 38, line 24.

Strike: "4.5%"

Insert: "4.07%"

6. Page 41, line 2.

Insert: "NEW SECTION. Section 60. Coordination instruction. If House Bill No. 722 is not passed and approved, then 16-11-119(2)(b) as amended in [section 51 of this act] is void."

Renumber: subsequent sections

Amendment **not adopted** as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Ryan, Shea, Squires, Stonington, Toole, Tropila, Wheat.

Total 22

Nays: Bales, Barkus, Black, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Tester, Thomas, Zook, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Butcher, Roush, Schmidt.

Total 3

SB 407 - Senator DePratu moved **SB 407**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Mahlum, McGee, McNutt, Pease, Perry, Stapleton, Stonington, Story, Tash, Thomas, Zook, Mr. President.

Total 25

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Laible, Mangan, McCarthy, Nelson, O'Neil, Roush, Ryan, Shea, Sprague, Squires, Taylor, Tester, Toole, Tropila, Wheat.

Total 24

Absent or not voting: None.

Total 0

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Excused: Schmidt.
Total 1

Senator Thomas moved the committee rise. Motion carried. Committee arose. Senate resumed. President Keenan in the chair.

MOTIONS

SB 407 - Senator Thomas moved **SB 407** be taken from second reading and rereferred to the committee on Taxation. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 32

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 17

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 109, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

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SB 141, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

HB 127, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

HB 262 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Toole.
Total 1

Absent or not voting: None.
Total 0

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Excused: Schmidt.
Total 1

HB 303, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 35

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 15

Paired: Grimes, Aye; Schmidt, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 373 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 33

Nays: Butcher, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Pease, Schmidt, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 17

Paired: Grimes, Aye; Schmidt, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 583, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

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Nays: Bales, Curtiss, Esp, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

MOTIONS

HB 262 - Senator Laible moved he be allowed to change his vote on **HB 262**, third reading this day, from nay to yea.
Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, March 21, 2003. Motion carried.

Senate adjourned at 5:15 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTIETH LEGISLATIVE DAY**

Helena, Montana
March 21, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson.

President Keenan introduced the Lewis and Clark Cadet Color Guard of the Civil Air Patrol, who won the State competition for the 4th year in a row and who also won the Rocky Mountain Region Competition in 2003. Colors were presented by the Color Guard, followed by the Pledge of Allegiance.

Roll Call. All members present, except Senators Schmidt and Tester, excused. Quorum present.

The presiding officer has authenticated the daily journal for the fifty-ninth legislative day.

COMMUNICATIONS AND PETITIONS

Senator Cocchiarella read the following letter from U. S. Senator Max Baucus, who was not able to be in Montana to address a joint session of the Montana Legislature on this day:

Dear Members of the Senate:

I regret that I could not be with you today. Circumstances in Washington - the war in Iraq and key votes on the federal budget-require that I remain here to represent Montana in these historic times.

I deeply appreciate the invitation to speak to you, and want to say a few words on what I am doing in Washington to move Montana and our country forward.

First, let me say that we Montanans, as Americans, support our troops, who are now in harm's way. They make us proud. They make great sacrifices - some give their lives, or already have - to protect our country, our security, our democracy, our freedom. To them, we truly owe our full support. And we pray for their safe return.

We, as Montana's elected leaders, must work together to move Montana forward.

I know you face immense hurdles this session, but I have seen first hand what can be done when we work together.

We have our share of tough issues in Washington. What's why I believe strongly in working with Montana's Congressional Delegation. I'm very proud that Conrad, Denny, and I meet once a month in Washington to be effective for Montana.

Mike Mansfield started these meetings. Called them "good government meetings." With the recent commemoration of his 100th birthday, we look to his example of working together.

Here's what I'm working on together with my colleagues in Congress:

- I'm working with a group of moderate senators to craft an economic stimulus plan that will provide tax cuts to boost the economy. I'll do everything in my power to provide significant aid to states, like Montana, that are facing budget deficits.

- We'll write and pass a new highway bill that will bring even more dollars and good-paying highway jobs

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SIXTIETH LEGISLATIVE DAY - MARCH 21, 2003

to Montana. This year, I'm working with Denny on the highway bill. He's on the House transportation committee; I'm on the Senate Highway committee.

- I'm committed to passing a real prescription drug benefit that works in rural areas like Montana. My amendment to the budget resolution would ensure that seniors in traditional Medicare will get the same drug benefit as seniors that move into a private Medicare plan. I'm working hard on the Finance Committee to make sure Montanans can get quality, affordable health care - no matter where they live.

- I'm committed to establishing an asbestos health-care fund so we can ensure residents in Libby get the health care they need and deserve for years to come. We need to do everything we can to help them get clean bills of health.

- I'm committed to helping farmers and ranchers weather this drought. I've walked through the fields, seen the dust blow. Congress passed a drought aid package that falls well short of what we were pushing for. I'll keep fighting for meaningful disaster assistance this year.

- I'm committed to working to provide full funding for the "No Child Left Behind Act". I've met with Montana education leaders and teachers. We can't let these new education reforms become an unfunded mandate.

Finally, let me mention one last initiative. Creating jobs. Boosting the economy.

My top priority continues to be working with the private sector, delegation, governor, Legislature and local elected officials to boost Montana's economy and create more good-paying jobs in our state. Our kids shouldn't have to leave Montana to find good jobs and raise their families.

I'm pleased to announce that we will hold our 3rd Montana Economic Development Summit this year in Billings. Again, this is a joint effort with Judy, Conrad, Denny, the Economic Development Action Group and the Governor's Office of Economic Opportunity. We're all very glad to be working together.

This year, we'll focus on recruiting new businesses to Montana. And we'll focus on the Governor's idea to develop a strategy centered on Montana's existing and emerging industry clusters.

I encourage all of you to attend the 3rd Montana Economic Development Summit. We want you to be a big part of it. Again, we all need to work together to improve our state's economy. Mark your calendars. May 28-29 in Billings.

As the bicentennial of the Lewis and Clark expedition draws near, I think it's important for all of us to look to their example of working together.

Separately, they were Meriwether Lewis and William Clark. Together, they were Lewis and Clark. There would have been no Lewis with Clark - no Clark without Lewis. And neither of them would have accomplished what they did without their team. They succeeded by sheer will. But more than anything else, the Corps of Discovery was a success because they worked together.

Thank you for your time. I wish you well in your deliberations and in doing what's right for Montana.

Sincerely,

Max (Baucus)

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REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 482, SJR 28.**

Correctly engrossed: **HB 157, HB 190, HB 315, HB 480, HB 610, HB 618, HJR 17.**

Correctly enrolled: **SB 107, SB 118, SB 132, SB 139, SB 160, SB 173, SB 253.**

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 3/20/2003
HB 639, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman): 3/20/2003
SB 89, do pass. Report adopted.
HB 272, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman): 3/21/2003
HB 414, be concurred in. Report adopted.
HB 458, be concurred in. Report adopted.
HB 549, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman): 3/20/2003
HB 222, be amended as follows:

1. Page 12, line 15.

Following: line 14

Insert: "NEW SECTION. Section 6. Coordination instruction. If House Bill No. 29 and [this act] are both passed and approved, then [section 1 of House Bill No. 29], amending 53-30-402, is void."

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 289, be amended as follows:

1. Title, line 16.

Following: "SECTION"

Strike: "61-8-401"

Insert: "61-8-404"

And, as amended, be concurred in. Report adopted.

HB 317, be amended as follows:

1. Page 2, line 3 through line 4.

Following: "affected" on line 3

Strike: remainder of line 3 through "shelter" on line 4

2. Page 2, line 4.

Following: ";;"

Strike: "and"

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3. Page 2, line 5.

Following: line 4

Insert: "(b) require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and"

4. Page 2, line 5.

Strike: "(b)"

Insert: "(c)"

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):
HB 584, be amended as follows:

3/21/2003

1. Title, line 5.

Following: "ACT;"

Insert: "AMENDING SECTION 75-10-743, MCA;"

2. Title, line 6.

Following: "REPEALING"

Insert: "SECTION 75-10-752, MCA, AND"

3. Page 1.

Following: line 10

Insert: "**Section 1.** Section 75-10-743, MCA, is amended to read:

"75-10-743. (Temporary) Orphan share state special revenue account -- reimbursement of claims -- payment of department costs. (1) There is an orphan share account in the state special revenue fund established in 17-2-102 that is to be administered by the department. Money in the account is available to the department by appropriation and must be used to reimburse remedial action costs claimed pursuant to 75-10-742 through 75-10-752 and to pay costs incurred by the department in defending the orphan share.

(2) There must be deposited in the orphan share account:

(a) all penalties assessed pursuant to 75-10-750(12);

(b) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

(c) funds allocated from the resource indemnity and ground water assessment tax proceeds provided for in 15-38-106;

(d) unencumbered funds remaining in the abandoned mines state special revenue account;

(e) interest income on the account;

(f) funds received from settlements pursuant to 75-10-719(7); and

(g) funds received from reimbursement of the department's orphan share defense costs pursuant to subsection

(6).

(3) If the orphan share fund contains sufficient money, valid claims must be reimbursed subsequently in the order in which they were received by the department. If the orphan share fund does not contain sufficient money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan share fund, the department, and the state are not liable for making any reimbursement for the costs. The department and the state are not liable for any penalties if the orphan share fund does not contain sufficient money to reimburse claims, and interest may not accrue on outstanding claims.

(4) Except as provided in subsection (8), claims may not be submitted and remedial action costs may not be reimbursed from the orphan share fund until all remedial actions, except for operation and maintenance, are completed

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at a facility.

(5) Reimbursement from the orphan share fund must be limited to actual documented remedial action costs incurred after the date of petition provided in 75-10-745. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.

(6) (a) The department's costs incurred in defending the orphan share must be paid by the persons participating in the allocation under 75-10-742 through 75-10-752 in proportion to their allocated shares. The orphan share fund is responsible for a portion of the department's costs incurred in defending the orphan share in proportion to the orphan share's allocated share, as follows:

(i) If sufficient funds are available in the orphan share fund, the orphan share fund must pay the department's costs incurred in defending the orphan share in proportion to the share of liability allocated to the orphan share.

(ii) If sufficient funds are not available in the orphan share fund, persons participating in the allocation under 75-10-742 through 75-10-752 shall pay all the orphan share's allocated share of the department's costs incurred in defending the orphan share in proportion to each person's allocated share of liability.

(b) A person who pays the orphan share's proportional share of costs has a claim against the orphan share fund and must be reimbursed as provided in subsection (3).

(7) ~~(a)~~ On August 21, 2002, \$1,000 is transferred from the orphan share fund to the general fund. If sufficient money remains in the orphan share fund on June 29, 2003, \$999,000 must be transferred to the general fund.

~~(b) If any money remains in the orphan share fund after June 30, 2005, and after outstanding claims are paid, the money must be deposited in the general fund.~~

(8) If the lead liable person under 75-10-746 presents evidence to the department that the person cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause undue financial hardship on the person, the department may allow the submission of claims and may reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless the person is in substantial compliance with all department-approved remedial action plans.

(9) A person participating in the allocation process who received funds under the mixed funding pilot program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive reimbursement from the orphan share fund for the amount of funds received under the mixed funding pilot program that are later attributed to the orphan share under the allocation process. (Terminates June 30, 2005--sec. 30, Ch. 415, L. 1997.)"

Renumber: subsequent sections

4. Page 1, line 11.

Following: "Section"

Insert: "75-10-752, MCA, and section"

Strike: "is"

Insert: "are"

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

3/20/2003

HB 557, be concurred in. Report adopted.

HB 585, be concurred in. Report adopted.

HB 703, be amended as follows:

1. Page 5, line 30.

Strike: "including"

Insert: "which may include"

2. Page 6, line 3 through line 4.

Following: "efforts" on line 3

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Strike: "1" on line 3 through "2" on line 4

And, as amended, be concurred in. Report adopted.

March 22, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 51** sponsored by Senator Bohlinger and **Senate Bill 69** sponsored by Senator Nelson on March 20, 2003.

Sincerely,

JUDY MARTZ
Governor

March 20, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, MT 59620

RE: House Bill 87

Dear President Keenan and Speaker Mood:

As of today, I have received additional information that removes the need for the amendment proposed on March 19, 2003. Therefore, I am requesting that you reject the proposed amendment on **House Bill No. 87**.

Sincerely,

JUDY MARTZ
Governor

March 20, 2003

The Honorable Doug Mood
Speaker of the House

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State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 94, **"AN ACT REVISING AND CLARIFYING THE PUBLIC PARTICIPATION AND NOTICE REQUIREMENTS FOR OPEN MEETINGS; PROVIDING THAT AN AGENDA FOR AN OPEN MEETING MUST INCLUDE AN ITEM ALLOWING PUBLIC COMMENT ON ANY PUBLIC MATTER WITHIN THE JURISDICTION OF THE AGENCY CONDUCTING THE MEETING; CLARIFYING THAT AN AGENCY MAY NOT TAKE ACTION ON ANY MATTER DISCUSSED UNLESS SPECIFIC NOTICE OF THAT MATTER IS INCLUDED ON AN AGENDA AND PUBLIC COMMENT HAS BEEN ALLOWED; CLARIFYING THAT THE GOVERNOR'S DUTY TO ENSURE THAT AGENCIES HAVE POLICIES AND PROCEDURES TO FACILITATE PUBLIC PARTICIPATION APPLIES TO THE EXECUTIVE BRANCH OF STATE GOVERNMENT; AMENDING SECTION 2-3-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"** for the following reasons.

As passed, House Bill No. 94 requires that public bodies of state and local government include on the agenda of a "meeting," as defined in the open meeting law, an item allowing public comment on any public matter that is within the jurisdiction of the body. The bill also prohibits a public body from taking action on any matter unless it has accepted public comment.

One of the main functions of many public bodies of state government is to decide contested case matters. HB 94 would require these state government boards and commissions to allow the public to comment on contested case matters. This is inconsistent with the Montana Administrative Procedure Act, which provides that the decision on a contested case must be based on the record. The record must be developed in an adversarial adjudicative process similar to court procedures. Public comment on contested cases, and other adjudicative proceedings, is therefore inappropriate.

Also, House Bill No. 94 may allow two opportunities for comment on the same matter at the same public meeting. This could occur when the agenda for the meeting contains an item inviting public comment on a matter. House Bill No. 94 may require the public body to accept public comment under that item and again during the "open mike" period that the bill requires. This second comment opportunity would unnecessarily lengthen meetings for the public-spirited Montanans who serve on our state and local government boards and commissions.

The amendments I am proposing would eliminate duplicative comment periods during a meeting and exempt contested case and other adjudicative proceedings from the public comment requirement. Rep. Lawson has been contacted and agrees with these amendments.

Sincerely,

JUDY MARTZ
Governor

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GOVERNOR'S AMENDMENTS
TO **HOUSE BILL 94**

1. Title, line 10.

Following: line 9

Insert: "CLARIFYING WHAT CONSTITUTES A PUBLIC MATTER;"

2. Page 1, line 18.

Following: "(1)"

Insert: "(a)"

3. Page 1, line 22.

Following: "matter"

Insert: "that is not on the agenda of the meeting and that is"

4. Page 1, line 27.

Following: line 26

Insert: "(b) For purposes of this section, "public matter" does not include contested case and other adjudicative proceedings."

MESSAGES FROM THE OTHER HOUSE

HB 224 - The House acceded to the request of the Senate and herewith transmits **HB 224** for reconsideration:

3/20/2003

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 483, introduced by Keenan, Zook (by request of the Senate Finance Standing Committee), referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Pease in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 443 - Senator McGee moved **HB 443** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson,

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Kitzenberg, Nelson, Pease, Ryan, Squires, Stonington, Toole, Tropila, Wheat.
Total 19

Absent or not voting: None.
Total 0

Excused: McCarthy, Schmidt, Tester.
Total 3

HB 656 - Senator Cooney moved **HB 656** be concurred in. Motion carried unanimously.

Senator Grimes excused at this time.

HB 683 - Senator McGee moved **HB 683** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 38

Nays: Cooney, Ellingson, Elliott, Hansen, Mangan, Pease, Roush, Ryan, Toole.
Total 9

Absent or not voting: None.
Total 0

Excused: Grimes, Schmidt, Tester.
Total 3

HJR 4 - Senator Laible moved **HJR 4** be concurred in. Motion carried unanimously.

HJR 5 - Senator Cooney moved **HJR 5** be concurred in. Motion carried unanimously.

HJR 8 - Senator Glaser moved **HJR 8**, second reading copy, be amended as follows:

1. Title, line 5.

Strike: "STATE-TRIBAL RELATIONS COMMITTEE"

Insert: "LEGISLATIVE COUNCIL TO DESIGNATE AN APPROPRIATE INTERIM COMMITTEE"

2. Page 1, line 18.

Following: "12 times that"

Strike: "on"

Insert: "of"

3. Page 2, line 9.

Strike: "State-Tribal Relations Committee,"

Insert: "Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to work"

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4. Page 2, line 11.

Following: "state"

Insert: "to"

5. Page 2, line 28.

Strike: "Committee reports"

Insert: "appropriate committee report"

6. Page 2, line 30.

Strike: "Committee"

Insert: "committee"

Amendment **adopted** unanimously.

HJR 8 - Senator Mangan moved **HJR 8**, as amended, be concurred in. Motion carried with Senator Butcher voting nay.

HB 30 - Senator Curtiss moved **HB 30** be concurred in. Motion carried unanimously.

HB 60 - Senator Tropila moved **HB 60** be concurred in. Motion carried unanimously.

HB 123 - Senator Shea moved **HB 123** be concurred in. Motion carried unanimously.

HB 176 - Senator Nelson moved **HB 176** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Black, Schmidt, Tester.

Total 3

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Pease moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, March 22, 2003. Motion carried.

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Senate adjourned at 2:49 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTY-FIRST LEGISLATIVE DAY**

Helena, Montana
March 22, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Elliott, Schmidt, Stonington and Tester, excused. Quorum present.

The presiding officer has authenticated the daily journal for the sixtieth legislative day.

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman):
HB 159, be amended as follows:

3/21/2003

1. Title, page 1, line 23.

Following: "MCA"

Insert: "; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE"

2. Page 1, line 27.

Strike: "24"

Insert: "25"

3. Page 2, line 2.

Strike: "24"

Insert: "25"

4. Page 4, line 24.

Strike: "24"

Insert: "25"

5. Page 4, line 29.

Strike: "24"

Insert: "25"

6. Page 5, line 6.

Strike: "24"

Insert: "25"

7. Page 5, line 7.

Strike: "24"

Insert: "25"

8. Page 5, line 11.

Strike: "24"

Insert: "25"

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9. Page 5, line 12.

Strike: "24"

Insert: "25"

10. Page 5, line 15.

Strike: "24" in two places

Insert: "25" in two places

11. Page 5, line 23.

Strike: "24" in two places

Insert: "25" in two places

12. Page 5, line 26.

Strike: "24"

Insert: "25"

13. Page 5, line 27.

Strike: "24"

Insert: "25"

14. Page 5, line 30.

Strike: "24"

Insert: "25"

15. Page 6, line 1.

Strike: "24"

Insert: "25"

16. Page 6, line 2.

Strike: "24"

Insert: "25"

17. Page 6, line 3.

Strike: "24"

Insert: "25"

18. Page 6, line 12.

Strike: "24"

Insert: "25"

19. Page 6, line 20.

Strike: "\$60"

Insert: "\$75"

20. Page 6, line 21.

Strike: "\$60"

Insert: "\$75"

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21. Page 6, line 22.

Strike: "both licenses"

Insert: "each license"

22. Page 6, line 24.

Strike: "14"

Insert: "15"

23. Page 6, line 29.

Strike: "85% "

Insert: "88% "

24. Page 7, line 1.

Strike: "7.5% "

Insert: "6% "

25. Page 7, line 2.

Strike: "7.5% "

Insert: "6% "

Strike: "21"

Insert: "22"

26. Page 7, line 4.

Strike: "21"

Insert: "22"

27. Page 7, line 5.

Following: line 4

Insert: "NEW SECTION. Section 14. License fee -- late renewal fee -- allocation of fees. (1) For each annual license issued, the department shall collect a fee of \$90. For an operation containing an establishment and a retail food establishment, as provided in [section 11(3)], the department shall collect one fee of \$90 for each license.

(2) A person operating an establishment who fails to renew a license by the expiration date provided in [section 15] and who operates the establishment in the license year for which an annual renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 in addition to the annual renewal fee required by subsection (1). Payment of the late renewal fee does not relieve the operator of responsibility for operating without a license.

(3) The department shall deposit the annual fees collected under subsection (1) as follows:

(a) 90% into the state special revenue fund to the credit of the local board inspection fund account, created in 50-2-108;

(b) 5% into the general fund; and

(c) 5% into the account, created in [section 22], in the state special revenue fund.

(4) The department shall deposit all of the fees collected under subsection (2) into the account, created by [section 22], in the state special revenue fund."

Renumber: subsequent sections

28. Page 7, line 8.

Strike: "24"

Insert: "25"

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29. Page 7, line 27.

Strike: "24" in two places

Insert: "25" in two places

30. Page 8, line 3.

Strike: "16"

Insert: "17"

31. Page 8, line 5.

Strike: "24"

Insert: "25"

32. Page 8, line 6.

Strike: "24"

Insert: "25"

33. Page 8, line 13.

Strike: "24" in two places

Insert: "25" in two places

34. Page 9, line 7.

Strike: "24" in two places

Insert: "25" in two places

35. Page 9, line 17.

Strike: "24"

Insert: "25"

36. Page 9, line 22.

Strike: "24" in two places

Insert: "25" in two places

37. Page 9, line 26.

Strike: "24"

Insert: "25"

38. Page 9, line 27.

Strike: "24"

Insert: "25"

39. Page 10, line 6.

Strike: "24"

Insert: "25"

40. Page 10, line 7.

Strike: "24"

Insert: "25"

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41. Page 10, line 12.

Strike: "14"

Insert: "15"

Strike: "16"

Insert: "17"

42. Page 10, line 15.

Strike: "14"

Insert: "15"

43. Page 10, line 16.

Strike: "16"

Insert: "17"

44. Page 11, line 15.

Strike: "24"

Insert: "25"

45. Page 15, line 30.

Strike: "24"

Insert: "25"

46. Page 16, line 1.

Strike: "24"

Insert: "25"

47. Page 16, line 2.

Following: line 1

Insert: "NEW SECTION. Section 34. Coordination instruction. If Senate Bill No. 464 is not passed and approved, then [sections 14, 35(2), and 36 of this act] are void and [section 13 of this act] must read as follows:

"NEW SECTION. Section 13. License fee -- late renewal fee -- allocation of fees. (1) For each annual license issued, the department shall collect a fee of \$60. For an operation containing an establishment and a retail food establishment, as provided in [section 11(3)], the department shall collect one fee of \$60 for each license.

(2) A person operating an establishment who fails to renew a license by the expiration date provided in [section 14] and who operates the establishment in the license year for which an annual renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 in addition to the annual renewal fee required by subsection (1). Payment of the late renewal fee does not relieve the operator of responsibility for operating without a license.

(3) The department shall deposit the annual fees collected under subsection (1) as follows:

(a) 85% into the state special revenue fund to the credit of the local board inspection fund account, created in 50-2-108;

(b) 7.5% into the general fund; and

(c) 7.5% into the account, created in [section 21], in the state special revenue fund.

(4) The department shall deposit all of the fees collected under subsection (2) into the account, created by [section 21], in the state special revenue fund."

Insert: "NEW SECTION. Section 35. Effective dates. (1) Except as provided in subsection (2), [this act] is effective January 1, 2004.

(2) [Section 14] is effective January 1, 2005."

Insert: "NEW SECTION. Section 36. Termination. [Section 13] terminates December 31, 2004."

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And, as amended, be concurred in. Report adopted.

HB 183, be amended as follows:

1. Title, page 1, line 9.

Strike: "33-1-501,"

2. Title, page 1, line 10.

Strike: the second "AND"

Following: "MCA"

Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE"

3. Page 1, line 14 through page 2, line 26.

Strike: section 1 in its entirety

Renumber: subsequent sections

4. Page 3.

Following: line 28

Insert: "(3) The health insurance issuer shall hold for processing of payment any claims received during the 15-day notification period for nonpayment of premium for group health insurance coverage. Upon receipt of the premium, claims held for the 15-day notification period must be processed for payment."

Renumber: subsequent subsections

5. Page 3, line 29.

Following: "effect"

Insert: ", subject to the requirements of subsection (3),"

6. Page 6, line 10.

Strike: "3"

Insert: "2"

7. Page 7, lines 13 and 14.

Strike: subsection (7) in its entirety

8. Page 9, line 29.

Strike: "3"

Insert: "2"

9. Page 9, line 30.

Strike: "3"

Insert: "2"

10. Page 9.

Following: line 30

Insert: "NEW SECTION. Section 11. Effective date -- applicability. [This act] is effective January 1, 2004, and applies to policies or certificates issued or renewed on or after January 1, 2004."

And, as amended, be concurred in. Report adopted.

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HB 196, be concurred in. Report adopted.

HB 323, be concurred in. Report adopted.

HB 338, be concurred in. Report adopted.

HB 354, be concurred in. Report adopted.

HB 438, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

3/21/2003

HB 481, be amended as follows:

1. Page 1, line 11 through line 25.

Strike: line 11 through line 25 in their entirety

2. Page 6, line 25.

Strike: "State special revenue fund"

3. Page 6, line 26 through line 27.

Strike: line 26 through line 27 in their entirety

4. Page 6, line 29.

Strike: "State special revenue fund"

5. Page 6, line 30 through page 7, line 1.

Strike: page 6, line 30 through page 7, line 1 in their entirety

6. Page 7, line 2.

Following: line 1

Insert: "(2) The following money is appropriated to the department of public health and human services from the federal special revenue fund to match state special revenue in subsection (1) to fund increases in medicaid payments to hospitals:

Fiscal Year 2004 \$19,418,341

Fiscal Year 2005 \$22,941,125"

Renumber: subsequent subsection

And, as amended, be concurred in. Report adopted.

HB 554, be concurred in. Report adopted.

HB 564, be amended as follows:

1. Title, line 15.

Following: "AN"

Insert: "IMMEDIATE EFFECTIVE DATE, AN"

2. Title, line 16.

Following: "DATE"

Insert: ", AND A TERMINATION DATE"

3. Page 2, line 8.

Following: "OF"

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Strike: "COMMERCE"

Insert: "labor and industry"

4. Page 2, line 16 and line 17.

Following: "(6)" on line 16

Insert: "(a)"

Following: "means" on line 16

Strike: ":" on line 16 through "(a)" on line 17

5. Page 2, line 18.

Following: "include"

Insert: ":"

(i)"

6. Page 2, line 20.

Following: "state"

Strike: "."

Insert: "; or

(ii) jobs created by an employer as the result of an acquisition of a Montana company or entity if those jobs previously existed in the state of Montana in the acquired company or entity unless it is demonstrated that the jobs:

(A) are substantially different as a result of the acquisition; and

(B) will require new training for the employee to meet new job requirements."

7. Page 2, line 24 through line 26.

Following: "engaged" on line 24

Strike: remainder of line 24 through "(b)" on line 26

8. Page 3, line 4 and line 5.

Following: "(11)" on line 4

Insert: "(a)"

Following: "means" on line 4

Strike: ":" on line 4 through "(a)" on line 5

9. Page 3, line 24.

Strike: "THE STATE"

Insert: "a local"

Following: "BOARD"

Insert: "authorized in 53-2-1204"

10. Page 3, line 28.

Strike: "THE STATE"

Insert: "a local"

11. Page 4, line 26.

Following: "to"

Strike: "employers"

Insert: "primary sector businesses"

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12. Page 8, line 1 through line 10.

Following: "transfer the" on line 1

Strike: remainder of line 1 through "GRANT" on line 10

Insert: "amount of the new jobs credits from the general fund to the office of economic development, to be used for repayment of principal, interest, and administrative costs on loans issued under [section 7]. The office of economic development shall account separately for each grant award and any new jobs credit associated with that grant. Funds transferred for a new jobs credit may be used only for repayment of principal, interest, and administrative costs for the loan that funded the grant with which the new jobs credit is associated and for the labor supply studies authorized in subsection (6). If funds transferred for a new jobs credit exceed the amount required for repayment of principal, interest, and administrative costs on the loan that funded the grant with which the new jobs credit is associated and the labor supply studies authorized in subsection (6), all remaining funds must be used for early repayment of principal on the loan associated with the new jobs credit. Transfers from the department of revenue for a new jobs credit must cease once the principal and interest on the loan used to fund the grant associated with that new jobs credit"

13. Page 8, line 12.

Strike: "THE SPECIAL ACCOUNTS IN"

14. Page 8, line 30.

Following: "9."

Strike: "Applicability"

Insert: "Effective date --- applicability"

Following: "act]"

Insert: "is effective on passage and approval and"

15. Page 8, line 30 through page 9, line 1.

Following: "after" on line 30

Strike: remainder of line 30 through "2003" on page 9, line 1

Insert: "[the effective date of this act]"

16. Page 9, following line 1.

Insert: "NEW SECTION. **Section 10. Termination.** [This act] terminates June 30, 2007."

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/22/2003

SB 100, introduced by Grimes

SB 104, introduced by Tester

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/22/2003

SB 143, introduced by Bohlinger

Senate joint resolution concurred in as amended and returned to the Senate for concurrence in House amendments:

3/22/2003

SJR 24, introduced by O'Neil

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House bill passed and transmitted to the Senate for concurrence:

3/22/2003

HB 2, introduced by Lewis

FIRST READING AND COMMITMENT OF BILLS

The following House bill was introduced, read first time, and referred to committee:

HB 2, introduced by Lewis (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans, and thanked them for their work through the week.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Taylor in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 185 - Senator Anderson moved **HB 185** be concurred in. Motion carried unanimously.

HB 199 - Senator Cromley moved **HB 199** be concurred in. Motion carried unanimously.

HB 236 - Senator Stapleton moved **HB 236** be concurred in. Motion carried unanimously.

HB 368 - Senator Anderson moved **HB 368** be concurred in. Motion carried unanimously.

HB 711 - Senator Cooney moved **HB 711** be concurred in. Motion carried unanimously.

Senator McGee assumed the chair.

SB 296 - Senator Taylor moved **SB 296** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, Pease, Perry, Roush, Shea, Stapleton, Story, Tash, Taylor, Thomas, Toole, Tropila, Zook, Mr. President.

Total 36

Nays: Cobb, Cromley, Curtiss, Harrington, McCarthy, O'Neil, Ryan, Sprague, Squires, Wheat.

Total 10

Absent or not voting: None.

Total 0

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Excused: Elliott, Schmidt, Stonington, Tester.
Total 4

Senator Taylor reassumed the chair.

SB 469 - Senator Ellingson moved consideration of **SB 469** be passed for the day. Motion carried.

HB 17 - Senator Wheat moved **HB 17** be concurred in. Motion carried with Senators DePratu, O'Neil and Zook voting nay.

HB 40 - Senator Wheat moved **HB 40** be concurred in. Motion carried unanimously.

HB 63 - Senator Barkus moved **HB 63** be concurred in. Motion carried with Senators Bohlinger, Cromley and Johnson voting nay.

HB 122 - Senator Roush moved **HB 122** be concurred in. Motion carried with Senator McGee voting nay.

HB 145 - Senator Hansen moved **HB 145** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Shea, Sprague, Squires, Story, Toole, Tropila, Wheat, Zook.
Total 32

Nays: Bales, Butcher, Curtiss, Esp, Gebhardt, Johnson, McGee, O'Neil, Perry, Stapleton, Tash, Taylor, Thomas, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: Elliott, Schmidt, Stonington, Tester.
Total 4

HB 165 - Senator Mahlum moved **HB 165** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, Gebhardt, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Shea, Sprague, Squires, Tropila, Wheat, Zook.
Total 24

Nays: Anderson, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Glaser, Grimes, Johnson, McGee, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Toole, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: Elliott, Schmidt, Stonington, Tester.
Total 4

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Senator Kitzenberg excused at this time.

HB 169 - Senator Cocchiarella moved **HB 169** be concurred in. After discussion, Senator Stapleton made a **substitute motion** that consideration of **HB 169** be moved below HB220 on the second reading board. Motion carried.

HB 179 - Senator Laible moved **HB 179** be concurred in. Motion carried unanimously.

HB 182 - Senator Anderson moved **HB 182** be concurred in. Motion carried unanimously.

HB 220 - Senator McGee moved **HB 220** be concurred in. Motion carried unanimously.

HB 169 - Senator Cocchiarella moved consideration of **HB 169** be placed below HJR 20 on the second reading board. Motion carried.

HB 237 - Senator Story moved **HB 237** be concurred in. Motion carried unanimously.

HB 284 - Senator Mangan moved **HB 284** be concurred in. Motion carried unanimously.

HB 298 - Senator Wheat moved **HB 298** be concurred in. After discussion, Senator Wheat made a **substitute motion** that consideration of **HB 298** be placed at the bottom of the board for purpose of amendment. Motion carried unanimously.

HB 190 - Senator Cobb moved consideration of **HB 190** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 285 - Senator McGee moved **HB 285** be concurred in. Motion carried unanimously.

HB 312 - Senator D. Ryan moved **HB 312** be concurred in. Motion carried unanimously.

HB 315 - Senator Squires moved **HB 315** be concurred in. Motion carried unanimously.

HB 441 - Senator Harrington moved **HB 441** be concurred in. Motion carried unanimously.

HB 573 - Senator Mangan moved **HB 573** be concurred in. Motion carried unanimously.

HB 616 - Senator Story moved **HB 616** be concurred in. Motion carried unanimously.

HB 618 - Senator Mangan moved **HB 618** be concurred in. Motion carried with Senators Esp and Gebhardt voting nay.

HB 627 - Senator Story moved **HB 627** be concurred in. Motion carried unanimously.

HJR 20 - Senator Hansen moved **HJR 20** be concurred in. Motion carried unanimously.

HB 169 - Senator Stapleton moved **HB 169**, second reading copy, be further amended as follows:

1. Page 5, line 26.

Strike: "\$100"

Insert: "\$50"

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Amendment **adopted** unanimously.

HB 169 - Senator Cocchiarella moved **HB 169**, as amended, be concurred in. Motion carried with Senators Gebhardt and McGee voting nay.

HJR 34 - Senator Black moved **HJR 34** be concurred in. Motion carried with Senators McCarthy and Ryan voting nay.

HB 190 - Senator Cobb moved **HB 190**, second reading copy, be amended as follows:

1. Title, page 1, line 13.

Strike: "THAT"

Insert: "HOW"

2. Title, page 1, line 14.

Strike: "MADE DIRECTLY"

Insert: "PROVIDED"

3. Page 25, line 22.

Strike: the first "the"

Insert: "an"

4. Page 25, line 23 through line 24.

Strike: "compare" on line 23 through "included," on line 24

Following: "13-13-241"

Strike: ", "

5. Page 25, line 28.

Following: "If"

Insert: "an"

Strike: "ballots are"

Insert: "ballot is"

Following: "after the"

Insert: "official"

6. Page 25, line 29.

Strike: "the return envelopes"

Insert: "it"

Strike: "subsection (1)"

Insert: "13-13-241"

7. Page 25, line 30.

Strike: "return envelopes"

Insert: "secrecy envelope"

8. Page 26, line 5 through line 6.

Strike: "retained" on line 5 through "administrator" on line 6

Insert: "handled in the same manner as provided in 13-13-243"

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9. Page 26, line 15.

Following: "OR"

Insert: "an"

10. Page 26, line 17.

Following: "."

Insert: "If a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the ballot."

11. Page 26.

Following: line 17

Insert: "(b) In a primary election, unvoted party ballots must be separated from the secrecy envelopes and handled without being removed from their enclosure envelopes."

Renumber: subsequent subsection

12. Page 26, line 19.

Strike: "subsections"

Insert: "subsection"

Strike: "and (4)"

13. Page 26, line 21.

Following: "MAIL"

Insert: "or by the most expedient method available under rules adopted by the secretary of state"

14. Page 26, line 23.

Following: " "

Strike: "THE"

Insert: "If the elector is notified by mail, the"

15. Page 26, line 24.

Following: "WITH"

Insert: "a description of"

16. Page 26, line 28.

Strike: "ON ELECTION DAY, THE"

Insert: "The"

Strike: "judges"

Insert: "administrator"

17. Page 26, line 29.

Strike: "SECRECY"

Insert: "return"

18. Page 26, line 29 through line 30.

Strike: "and" on line 29 through "initials" on line 30

19. Page 27, line 2.

Strike: "opening the"

Insert: "receiving an"

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Strike: "return"
Insert: "secrecy"
Strike: "and"
Insert: ", "
Strike: "they"
Insert: "the election judges"

20. Page 27, line 3.
Following: "shall"
Insert: "on election day"

21. Page 27, line 3 through line 7.
Strike: "In" on line 3 through "box." on line 7

Amendment **adopted** unanimously.

HB 190 - Senator Cobb moved **HB 190**, as amended, be concurred in. After discussion, Senator Wheat made a **substitution motion** that **HB 190**, second reading copy, be further amended as follows:

1. Title, page 1, line 12.
Strike: "REVISING WHEN" through "AVAILABLE:"

2. Page 22, line 21.
Strike: "30"
Insert: "45"

3. Page 22, line 25.
Strike: "30"
Insert: "45"

Amendment **not adopted** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Squires, Toole, Tropila, Wheat.
Total 17

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HB 190 - Senator Wheat moved **HB 190**, second reading copy, be further amended as follows:

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1. Title, page 1, line 8.

Strike: "ALL"

Insert: "NEW"

Following: "ELECTORS"

Insert: "AND ELECTORS WHO SIGN TRANSFER FORMS"

2. Page 4, line 21.

Following: "provided"

Strike: "by law"

Insert: "under this title or who was legally registered before [the effective date of this act]"

3. Page 5, lines 7 through 8.

Strike: "whose" on line 7 through "law" on line 8

Insert: "who is not a legally registered elector"

4. Page 5, line 10.

Strike: "by law"

Insert: "under this title, including a legally registered elector who has signed a transfer form to indicate a change of residence but who has not submitted verification"

5. Page 15, line 26.

Strike: "Special addendum to" through "register"

Following: "~~vote~~"

Insert: "Prima facie evidence of right to vote -- special addendum"

6. Page 16.

Following: line 3

Insert: "(1) The fact that an elector's name appears on the precinct register as a legally registered elector is prima facie evidence of the elector's right to vote without presenting identification."

7. Page 16, line 4.

Following: "~~(2)~~"

Insert: "(2)"

8. Page 16, line 7.

Following: "precinct."

Insert: "The fact than an elector's name appears on a special addendum to the precinct register as a legally registered elector is prima facie evidence of the elector's right to vote without presenting identification."

9. Page 19, line 7.

Strike: "Voter identification and marking"

Insert: "Marking"

10. Page 19, lines 8 through 22.

Strike: "-- provisional voting" on line 8.

Insert: "-- legally registered electors -- provisionally registered electors"

Strike: "(1)" on line 8 through "." on line 22

Insert: "(1) (a) Before a legally registered elector is permitted to receive a ballot or vote, the elector shall state the elector's name and current address to an election judge. If the elector's name and address are the same as in the

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precinct register, the elector may sign on the place designated in the precinct register and must be given a regular ballot to vote.

(b) If the elector's name or address is not the same as listed in the precinct register, the elector may complete a transfer form or new registration form to correct the elector's voter registration information and provide the election judge with the following identification:

(i) photo identification, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification; or

(ii) a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address.

(c) If an elector provides the information listed in subsection (1)(b) and an election judge determines the information provided is sufficient to verify the voter's identity and eligibility to vote pursuant to 13-2-512, the elector may sign the precinct register and must be provided with a regular ballot to vote."

Amendment **not adopted** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Squires, Toole, Tropila, Wheat.

Total 17

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.

Total 5

Senator Thomas moved the Committee of the Whole stand in recess until the hour of 12:45 p.m. this day. Motion carried.

Committee of the Whole recessed at 12:21 p.m.

Roll call at 12:50 p.m. All members present except Senators Elliott, Kitzenberg, Schmidt, Stonington and Tester, excused. Quorum present.

Committee of the Whole resumed at 12:52 p.m.

HB 190 - Senator Wheat moved **HB 190**, second reading copy, be further amended as follows:

1. Page 20, line 20.

Strike: "the"

Insert: "a provisionally registered"

Following: "vote,"

Strike: "an"

Insert: "a provisionally registered"

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2. Page 21, line 13.

Following: "(1)"

Insert: "(a)"

Strike: "or"

Insert: ", including an elector who was legally registered prior to [the effective date of this act], is not required to present any form of identification in submitting an absentee ballot.

(b) A"

3. Page 21, line 14.

Following: "part"

Insert: "and must comply with the requirements of subsection (3)"

4. Page 21, line 23.

Strike: "The elector may also"

Insert: "A provisionally registered elector may"

5. Page 21, line 30.

Following: "If the"

Insert: "provisionally registered"

Amendment **not adopted** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Squires, Toole, Tropila, Wheat.

Total 16

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: Elliott, Harrington, Kitzenberg, Schmidt, Stonington, Tester.

Total 6

HB 190 - Senator Cobb's motion that **HB 190, as amended**, be concurred in, carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Cooney, Cromley, Ellingson, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Squires, Toole, Tropila, Wheat.

Total 14

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Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HB 298 - Senator Wheat moved consideration of **HB 298** be placed below HB 480 on the second reading board for purpose of amendment. Motion carried.

SB 385 - Senator F. Thomas moved consideration of **SB 385** be passed for the day. Motion carried.

SB 443 - Senator F. Thomas moved consideration of **SB 443** be placed below HB 298 on the second reading board. Motion carried.

HB 174 - Senator Hansen moved **HB 174** be concurred in. Motion carried unanimously.

Senator Cobb excused at this time.

HB 319 - Senator Cocchiarella moved **HB 319** be concurred in. Motion carried unanimously.

Senator Cobb present at this time.

HB 416 - Senator Wheat moved **HB 416** be concurred in. Motion carried unanimously.

HB 480 - Senator Cromley moved **HB 480** be concurred in. Motion carried unanimously.

HB 298 - Senator Wheat moved consideration of **HB 298** be placed below HJR 28 on the second reading board for purpose of amendment. Motion carried.

HB 610 - Senator Mangan moved **HB 610** be concurred in. Motion carried unanimously.

HB 420 - Senator Mahlum moved **HB 420** be concurred in. Motion carried unanimously.

HB 584 - Senator Grimes moved **HB 584** be concurred in. Motion carried unanimously.

HJR 10 - Senator Johnson moved **HJR 10** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Squires, Stapleton, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 41

Nays: Esp, Perry, Story.
Total 3

Absent or not voting: Sprague.
Total 1

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Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HJR 11 - Senator Black moved **HJR 11** be concurred in. Motion carried unanimously.

HJR 24 - Senator Cobb moved **HJR 24** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Gebhardt, Glaser, Grimes, Hansen, Harrington, Mahlum, McNutt, Pease, Perry, Ryan, Shea, Sprague, Stapleton, Taylor, Thomas.
Total 24

Nays: Bales, Butcher, DePratu, Ellingson, Esp, Johnson, Laible, Mangan, McCarthy, McGee, Nelson, O'Neil, Roush, Squires, Story, Tash, Toole, Tropila, Wheat, Zook, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HJR 28 - Senator Gebhardt moved **HJR 28** be concurred in. Motion carried unanimously.

HB 298 - Senator McGee moved **HB 298**, second reading copy, be amended as follows:

1. Title, page 1, line 5.

Strike: "A FEE"

2. Title, page 1, line 6.

Following: "FOR"

Insert: "CERTAIN COSTS OF"

3. Page 1, line 12.

Strike: "fees"

Insert: "actual costs"

4. Page 1, line 27 through page 1, line 29.

Strike: "establish" through "SECTION" on line 29

Insert: "collect actual costs for the review for errors and omissions in calculation or drafting, as provided in 76-3-611(2)(a)"

5. Page 2, line 3.

Strike: "fees"

Insert: "actual costs"

6. Page 2, line 27 through line 29.

Strike: "establish" on line 27 through "SECTION" on line 29

Insert: "collect actual costs for the review for errors and omissions in calculation or drafting, as provided in 76-3-611(2)(a)"

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Amendment **adopted** unanimously.

HB 298 - Senator Wheat moved **HB 298**, as amended, be concurred in. Motion carried unanimously.

SB 443 - Senator F. Thomas moved consideration of **SB 443** be passed for the day. Motion carried.

HB 129 - Senator Hansen moved **HB 129** be concurred in. Motion carried unanimously.

HB 157 - Senator Hansen moved **HB 157** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Taylor moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 30 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HB 60 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HB 123, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Glaser.
Total 1

Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HB 176 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HB 443 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Johnson, Mangan, Nelson, Pease, Ryan, Squires, Stonington, Toole, Tropila, Wheat.
Total 18

Paired: Grimes, Aye; Stonington, No.

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Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Tester.
Total 4

HB 656 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HB 683 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook.
Total 37

Nays: Ellingson, Hansen, Mangan, Roush, Ryan, Toole, Wheat, Mr. President.
Total 8

Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HJR 4, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

HJR 5 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Bales, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: Elliott, Kitzenberg, Schmidt, Stonington, Tester.
Total 5

MOTIONS

HB 403 - Senator Thomas moved the President be authorized to appoint a **Conference Committee** to meet with a like committee from the House to confer on Senate amendments to **HB 403**. The President appointed the following members:

Senator Anderson, chairman
Senator DePratu
Senator Cocchiarella

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, March 24, 2003. Motion carried.

Senate adjourned at 2:23 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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58TH LEGISLATURE
SIXTY-SECOND LEGISLATIVE DAY**

Helena, Montana
March 24, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Mangan and Sprague, excused. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-first legislative day.

SPECIAL ORDERS OF THE DAY

The Flathead Valley Home School Senior Choir, under the direction of Allison Kuechmann, entertained the Senate with vocal selections.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 483**.

Correctly engrossed: **HB 222, HB 317, HB 584, HB 703**.

Correctly enrolled: **SB 28, SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 183, SB 216, SB 229, SB 257, SJR 3, SJR 25**.

Examined by the sponsor and found to be correct: **SB 45, SB 55, SB 64, SB 78, SB 87, SB 125, SB 151, SB 190, SB 202, SJR 21**.

Signed by the President at 2:40 p.m., March 20, 2003: **SB 45, SB 55, SB 64, SB 78, SB 87, SB 125, SB 151, SB 190, SB 202, SJR 21**.

Signed by the Secretary of the Senate at 9:45 a.m., March 21, 2003: **SB 45, SB 55, SB 64, SB 78, SB 87, SB 125, SB 151, SB 190, SB 202, SJR 21**.

Signed by the Speaker at 10:30 a.m., March 21, 2003: **SB 45, SB 55, SB 64, SB 78, SB 87, SB 125, SB 151, SB 190, SB 202, SJR 21**.

Delivered to the Governor for approval at 9:00 a.m., March 24, 2003: **SB 45, SB 55, SB 64, SB 78, SB 87, SB 125, SB 151, SB 190, SB 202**.

Delivered to the Secretary of State at 9:00 a.m., March 24, 2003: **SJR 21**.

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
HB 388, be amended as follows:

3/24/2003

1. Page 2, line 30.

Strike: "40"

Insert: "20"

And, as amended, be concurred in. Report adopted.

HB 653, be amended as follows:

1. Title, line 10.

Strike: ", EXCEPT SHIPPING AND HANDLING,"

Insert: "ANALYSIS"

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2. Page 2, line 1.

Strike: "except shipping and handling."

Insert: "analysis"

And, as amended, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

3/24/2003

HB 54, be amended as follows:

1. Title, line 6 through line 7.

Following: "USE OF" on line 6

Strike: remainder of line 6 through "DEVICES" on line 7

Insert: "ELECTRONIC COMMUNICATIONS; DEFINING "ELECTRONIC COMMUNICATION""

2. Page 1, line 17.

Following: "phone"

Strike: "telephone, by"

3. Page 1, line 18.

Strike: "by any type of"

Following: "communication."

Strike: "including but not limited to a computer, videorecorder, or fax machine"

Insert: "as defined in 45-8-213"

4. Page 1, line 19.

Following: "or"

Strike: "by"

Insert: "any"

5. Page 2, line 19 through line 20.

Following: "use of" on line 19

Strike: remainder of line 19 through "device" on line 20

Insert: "electronic communication, as defined in 45-8-213"

6. Page 2, line 21 through line 22.

Following: "use of" on line 21

Strike: remainder of line 21 through "device" on line 22

Insert: "electronic communication, as defined in 45-8-213"

7. Page 2, line 26 through line 27.

Following: "use of" on line 26

Strike: remainder of line 26 through "device" on line 27

Insert: "electronic communication, as defined in 45-8-213"

8. Page 3, line 18.

Following: "including by"

Strike: "telephone or by a computer, videorecorder, fax machine, or other electronic device"

Insert: "electronic communication, as defined in 45-8-213,"

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9. Page 4, line 9 through 10.

Following: "mail" on line 9

Strike: remainder of line 9 through "device" on line 10

Insert: "electronic communication"

10. Page 4, line 14 through line 15.

Following: "uses" on line 14

Strike: remainder of line 14 through "device" on line 15

Insert: "an electronic communication"

11. Page 4, line 25 through page 5, line 16.

Strike: page 4, line 25 through page 5, line 16 in their entirety

Renumber: subsequent subsections

12. Page 5, line 18.

Following: "intercepts"

Strike: "a telephonic or cellular telephone voice or data"

Insert: "an electronic"

13. Page 5, line 27.

Following: line 26

Insert: "(4) "Electronic communication" means any transfer between persons of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system."

14. Page 6, line 4 through line 6.

Strike: "(a)" on line 4

Following: "involves" on line 4

Strike: remainder of line 4 through "medium" on line 6

Insert: "an electronic communication"

15. Page 6, line 6 through line 10.

Following: "in" on line 6

Strike: ";" on line 6 through "sent" on line 10

Insert: "the county in or from which the electronic communication was sent or in the county in which the electronic communication was received or to which it was sent"

16. Page 6, line 11 through line 17.

Strike: subsection (b) in its entirety

And, as amended, be concurred in. Report adopted.

HB 197, be amended as follows:

1. Title, line 18.

Following: ";;"

Insert: "PROVIDING FOR A DISCOUNT ON LICENSE REINSTATEMENT FEES UPON COMPLETION OF A DRIVER REHABILITATION PROGRAM;"

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2. Page 16, line 18.

Following: line 17

Insert: "NEW SECTION. Section 14. Discount on license reinstatement fee -- completion of driver rehabilitation program. (1) A person who submits a certificate of completion from a department-approved driver rehabilitation program must receive a 50% reduction on the license reinstatement fee due under 61-2-107 or [section 1 of House Bill No. 215].

(2) For purposes of this section, a driver rehabilitation program may be approved by the department if the program provider annually certifies to the department that the provider's program:

(a) provides a participant with a minimum of 4 hours of instruction on Montana driving laws, the importance of positive driving attitudes and habits, defensive driving techniques, and the responsible use of drugs and alcohol;

(b) includes preinstruction and postinstruction testing of each participant;

(c) provides a certificate of completion to each person who successfully completes the program; and

(d) reports to the department, in a timely manner, the name, date of birth, and driver's license number of each person to whom the provider has issued a certificate of completion."

Renumber: subsequent sections

3. Page 16, line 19.

Following: "INSTRUCTION."

Insert: "(1)"

4. Page 16, line 22.

Following: line 21

Insert: "(2) If House Bill No. 215 is not passed and approved, then the bracketed language in [section 14(1) of this act] is void.

(3) If House Bill No. 185 and [this act] are both passed and approved, then subsection (4)(a) of 61-5-107 as amended by [this act] must read as follows:

"(4) (a) When an application is received from an applicant who is not ineligible for licensure under 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from the previous licensing jurisdiction each jurisdiction in which the applicant was licensed in the preceding 10-year period. The driving record may be transmitted manually or by electronic medium. ~~When received, the driving records become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.~~"

(4) If Senate Bill No. 13 and [this act] are both passed and approved, then [section 1 of Senate Bill No. 13], amending 61-5-205, is void.

(5) If Senate Bill No. 37 and [this act] are both passed and approved, then subsection (3) of 61-5-205 in [this act] must read as follows:

"(3) Except as provided in 61-5-208(3)(c), a revocation under subsection (1) of this section must be for a period of 1 year."

(6) If Senate Bill No. 37 and [this act] are both passed and approved, then 61-5-208 must read as follows:

"61-5-208. Period of suspension or revocation -- probationary license -- ignition interlock device required on second or subsequent offense. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways ~~for a period of more than 1 year~~, except as otherwise permitted by law.

(2) ~~(a)~~ Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

~~(b)(3)~~ When If the department receives a report from a court or another licensing jurisdiction that a person is has been convicted or forfeits has forfeited bail or collateral not vacated for the offense of operating or being in actual

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physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for the offense of operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, ~~upon receiving a report of conviction or forfeiture of bail or collateral not vacated;~~

~~(a) upon a first conviction,~~ suspend the driver's license or driving privilege of the person for a period of 6 months. ~~Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall revoke the license or driving privilege of the person for a period of 1 year and, upon~~ Upon issuance of any restricted probationary license during the period of ~~revocation~~ suspension, ~~the department shall~~ restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device:

~~(i) if the report shows that the person's alcohol concentration at the time of arrest was 0.16 or greater; or~~

~~(ii) if ordered by the court when the person's alcohol concentration at the time of arrest was less than 0.16.~~

~~(b) upon a second or third conviction for an offense within 5 years of the first offense, suspend the license or driving privilege of the person for a period of 1 year and, upon reinstatement of the person's driving privileges, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the 12-month period beginning with the end of the period of the driver's license suspension. A restricted probationary license may not be issued during the 1-year period of suspension.~~

~~(c) upon a fourth or subsequent conviction constituting a felony under 61-8-731, revoke the license or driving privilege of the person for a period of 5 years. A restricted probationary license may not be issued during the first 2 years of the revocation period. If the person's probation officer agrees, the person's driving privileges may be reinstated for the last 3 years of the revocation period, and the person must be restricted to driving only a motor vehicle equipped with a functioning ignition interlock device during the remainder of the revocation period.~~

~~(4) If the 1-year period of revocation under subsection (3)(b) or (3)(c) passes and the person has not completed a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license revocation remains in effect until the course, treatment, or both, are completed.~~

~~(5)~~ For the purposes of subsection ~~(2)(b)~~ (3), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

~~(3) (a) If a person pays the reinstatement fee required in 61-2-107 and provides the department proof of compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension of a person who has been convicted of a violation of 61-8-401 or 61-8-406 and return the person's driver's license. The stay must remain in effect until the period of suspension has expired and any required chemical dependency education course, treatment, or both, have been completed.~~

~~(b)(6) If~~ When an ignition interlock restriction is imposed under subsection (3) and the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the court-imposed ignition interlock restriction by, including but not limited to such acts as operating a motor vehicle not equipped with the device, tampering with the device, or removing the device before the period of restriction has expired, the department shall ~~lift the stay and reinstate the license suspension~~ suspend the person's license or driving privilege for the remainder of the ~~time restriction~~ period. The department may not issue a restricted probationary driver's license to a person whose license ~~suspension~~ suspension has been ~~reinstated~~ suspended because of violation of an ignition interlock restriction.

~~(4) The period for all revocations made mandatory by 61-5-205 is 1 year except as provided in subsection (2).~~

~~(5)(7) (a) The~~ Except as provided in subsection (7)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

~~(6)(8) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802."~~

And, as amended, be concurred in. Report adopted.

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HB 340, be concurred in. Report adopted.

HB 389, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

3/24/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, March 22, 2003:

<u>TITLE</u>	<u>NAME</u>
Pages:	Brita Thompson, Harlowton, MT
	Nick Morton, Kalispell, MT
	Tara Rice, Choteau, MT
	Michael Lyons, Gt. Falls, MT
	Megan Nemitz, Billings, MT
	Krista Holden, Glendive, MT
	Cole Arthun, Wilsall, MT
	Bente Grinde, Bigfork, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, March 24, 2003:

<u>TITLE</u>	<u>NAME</u>	<u>SPONSOR</u>
Pages:	Beth Bennett, Kalispell, MT	Senator O'Neil
	Paul Chaon, Gt. Falls, MT	Senator Tester
	Cory Kalanick, Gt. Falls, MT	Senator Tropila
	Cortni Jones, Conrad, MT	Senator Roush
	Chase Mohny, Gt. Falls, MT	Senator Schmidt
	Nicole Peiffer, Kalispell, MT	Senator O'Neil
	Chelsey Hargrove, Three Forks, MT	Senator Perry
	Jeremy Robinson, Helena, MT	Senator Thomas

Report Adopted.

HB 41, be concurred in. Report adopted.

HB 435, be amended as follows:

1. Title, line 5.

Following: "FEE"

Insert: "OR CERTAIN OTHER COMPENSATION"

2. Page 1, line 18.

Strike: "for speaking to"

Insert: "or other compensation, except as provided for in 5-2-302, from"

3. Page 1, line 19.

Following: "OF MONTANA"

Insert: "for speaking to the agency or political subdivision"

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And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

3/24/2003

HB 287, be concurred in. Report adopted.

HB 433, be amended as follows:

1. Page 1, line 16.

Following: "or"

Insert: "or"

2. Page 1, line 16 through line 17.

Following: "~~department~~"

Strike: ".OR" on line 16 through "INVESTMENTS"

3. Page 3.

Following: line 7

Insert: "(c) (i) A bond required pursuant to subsection (3)(a) or (3)(b) must be a surety bond, a cash deposit, an assignment of a certificate of deposit, an irrevocable letter of credit, or other surety or written undertaking proposed by the applicant. Other sureties or written undertakings proposed by the applicant must meet all of the following criteria:

(A) the surety or written undertaking must be capable of being evaluated by an independent appraiser who is an expert in the field;

(B) the surety or written undertaking must be convertible to a liquid asset that has a cash value equal to or greater than the value of the required bond amount; and

(C) the title to the surety or written undertaking must be held in the name of the state or in a manner that maximizes the state's recovery of value in any subsequent bankruptcy or other insolvency or collection proceeding initiated by or against the applicant.

(ii) The department shall consult with the board of investments and any other state agencies that have significant expertise in determining the value of an asset in accordance with the criteria in subsection (3)(c)(i) as it relates to any other surety or written undertaking proposed by the applicant."

Renumber: subsequent subsection

4. Page 3, line 8.

Following: "(3)(a)"

Strike: "or (3)(b) "

Insert: ", (3)(b), or (3)(c)"

5. Page 4, line 17.

Following: "(9)"

Insert: "(a)"

6. Page 4.

Following: line 21

Insert: "(b) (i) A new bond posted pursuant to this subsection (9) must be a surety bond, a cash deposit, an assignment of a certificate of deposit, an irrevocable letter of credit, or other surety or written undertaking proposed by the applicant. Other sureties or written undertakings proposed by the applicant must meet all of the following criteria:

(A) the surety or written undertaking must be capable of being evaluated by an independent appraiser who is an expert in the field;

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(B) the surety or written undertaking must be convertible to a liquid asset that has a cash value equal to or greater than the value of the required bond amount; and

(C) the title to the surety or written undertaking must be held in the name of the state or in a manner that maximizes the state's recovery of value in any subsequent bankruptcy or other insolvency or collection proceeding initiated by or against the applicant.

(ii) The department shall consult with the board of investments and any other state agencies that have significant expertise in determining the value of an asset in accordance with the criteria in subsection (9)(b)(i) as it relates to any other surety or written undertaking proposed by the applicant."

And, as amended, be concurred in. Report adopted.

HB 467, be concurred in. Report adopted.

HB 527, be amended as follows:

1. Title, line 8.

Following: "USE;"

Insert: "PROVIDING THAT AN AMENDMENT TO AN OPERATING PERMIT FOR THE PURPOSE OF RETENTION OF MINE-RELATED FACILITIES THAT ARE VALUABLE FOR POSTMINING USE IS A MINOR AMENDMENT AND DOES NOT REQUIRE THE PREPARATION OF AN ENVIRONMENTAL REVIEW OR AN ENVIRONMENTAL IMPACT STATEMENT;"

2. Title, line 9.

Following: "82-4-335,"

Strike: "AND"

Following: "82-4-336,"

Insert: "AND 82-4-342,"

3. Page 7, line 3 through line 5.

Strike: "THE CONSULTATION" on line 3 through "FACILITIES." on line 5

4. Page 9, line 27.

Strike: "SPECIFIC"

5. Page 9, line 30 through page 10, line 5.

Strike: subsections (ii) and (iii) in their entirety

Renumber: subsequent subsections

6. Page 10, line 6.

Strike: "A BINDING AGREEMENT FOR"

7. Page 10, line 7.

Strike: "CESSATION OF MINE OPERATIONS, DEFINED AS THE REMOVAL OR PROCESSING OF ORE MATERIAL"

Insert: "completion of other approved mine reclamation activities"

8. Page 10, line 9.

Following: "(3)"

Insert: "for mine-related facilities that had previously been identified as valuable for postmining use"

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9. Page 10, line 27.

Insert: "Section 4. Section 82-4-342, MCA, is amended to read:

"82-4-342. Amendment to operating permits. (1) During the term of an operating permit issued under this part, an operator may apply for an amendment to the permit. The operator may not apply for an amendment to delete disturbed acreage except following reclamation, as required under 82-4-336, and bond release for the disturbance, as required under 82-4-338.

(2) (a) The board may by rule establish criteria for the classification of amendments as major or minor. The board shall adopt rules establishing requirements for the content of applications for major and minor amendments and the procedures for processing minor amendments.

(b) An amendment must be considered minor if:

(i) it is for the purpose of retention of mine-related facilities that are valuable for postmining use;

(ii) evidence is submitted showing that a local government has requested retention of the mine-related facilities for a postmining use; and

(iii) the postmining use of the mine-related facilities meets the requirements provided for in 82-4-336.

(3) Applications for major amendments must be processed pursuant to 82-4-337.

(4) The department shall review an application for a minor amendment and provide a notice of decision on the adequacy of the application within 30 days. If the department does not respond within 30 days, then the permit is revised in accordance with the application.

(5) The department is not required to prepare an environmental assessment or an environmental impact statement for the following categories of action:

(a) actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic review pursuant to Title 75, chapter 1;

(b) administrative actions, such as routine, clerical, or similar functions of a department, including but not limited to administrative procurement, contracts for consulting services, and personnel actions;

(c) repair or maintenance of the permittee's equipment or facilities;

(d) investigation and enforcement actions, such as data collection, inspection of facilities, or enforcement of environmental standards;

(e) ministerial actions, such as actions in which the agency does not exercise discretion, but acts upon a given state of facts in a prescribed manner;

(f) approval of actions that are primarily social or economic in nature and that do not otherwise affect the human environment;

(g) changes in a permit boundary that increase disturbed acres that are insignificant in impact relative to the entire operation, provided that the increase is less than 10 acres or 5% of the permitted area, whichever is less; ~~and~~

(h) changes in an approved operating plan or reclamation plan for an activity that was previously permitted, provided that the impacts of the change will be insignificant relative to the impacts of the entire operation and there is less than 10 acres of additional disturbance; and

(i) changes in a permit for the purpose of retention of mine-related facilities that are valuable for postmining use."

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 537, be concurred in. Report adopted.

HB 617, be concurred in. Report adopted.

HB 684, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

3/24/2003

SR 4, be adopted. Report adopted.

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HB 277, be amended as follows:

1. Title, page 1, line 6.

Following: the first "FOR"

Strike: "STATEWIDE ELECTED OFFICIALS AND"

2. Page 1, line 16.

Strike: "12"

Insert: "8"

Strike: "24-year"

Insert: "16-year"

3. Page 2, lines 2 through 3.

Strike: "statewide" on line 2 through "years" on line 3

Insert: "legislators to 12 years in a 24-year period"

4. Page 2, lines 4 through 5.

Strike: "statewide" on line 4 through "years" on line 5

Insert: "legislators to 12 years in a 24-year period"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/24/2003

HB 6, introduced by Witt

HB 7, introduced by Witt

HB 8, introduced by Witt

HB 663, introduced by Laslovich

HB 701, introduced by Newman

HB 736, introduced by R. Brown

HB 741, introduced by Lindeen

HB 744, introduced by E. Clark

Senate bills concurred in and returned to the Senate:

3/24/2003

SB 114, introduced by Johnson

SB 398, introduced by Cromley

MOTIONS

SB 433 - Senator Ryan moved **SB 433** be taken from the table in the committee on Taxation, printed and placed on second reading the sixty-third legislative day. Senator Thomas made a **substitute motion** that **SB 433** and **SB 332** both be brought to the floor. After much discussion, division of the motion was called for. Motion carried as follows on **SB 433**:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, Nelson, Pease, Perry, Roush, Ryan, Schmidt,

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Shea, Squires, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 37

Nays: Bales, DePratu, Elliott, Gebhardt, Glaser, Grimes, Johnson, McNutt, O'Neil, Story, Taylor.
Total 11

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

SB 332 -The motion on **SB 332** carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, McCarthy, McGee, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 37

Nays: Bales, Cocchiarella, Esp, Gebhardt, Glaser, Johnson, Laible, McNutt, O'Neil, Story, Taylor.
Total 11

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 585 - Senator Nelson moved consideration of **HB 585** be moved to the top of the second reading board this legislative day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 6, introduced by Witt (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 7, introduced by Witt (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 8, introduced by Witt (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 663, introduced by Laslovich, referred to Local Government.

HB 701, introduced by Newman, referred to Judiciary.

HB 736, introduced by R. Brown, Tester, F. Thomas, Wanzenried, referred to Finance and Claims.

HB 741, introduced by Lindeen, Brueggeman (by request of the House Joint Appropriations Subcommittee on General Government and Transportation), referred to Finance and Claims.

HB 744, introduced by E. Clark (by request of the House Joint Appropriations Subcommittee on Health and Human Services), referred to Finance and Claims.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 296 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, Pease, Perry, Roush, Schmidt, Shea, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.
Total 39

Nays: Cobb, Curtiss, Elliott, Gebhardt, McCarthy, O'Neil, Ryan, Squires, Wheat.
Total 9

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 17, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 40, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 63 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 45

Nays: Cromley, Johnson, Mr. President.
Total 3

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 122 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Curtiss, Esp, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 129 concurred in as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 46

Nays: Anderson, Mr. President.

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Total 2

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 145, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 41

Nays: Bales, Curtiss, Esp, Gebhardt, Johnson, O'Neil, Perry.

Total 7

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 157, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 165 concurred in as follows:

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, Cooney, Gebhardt, Glaser, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Shea, Stonington, Tash, Thomas, Tropila, Wheat, Zook.

Total 26

Nays: Anderson, Bohlinger, Butcher, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Grimes, Johnson, McGee,

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O'Neil, Perry, Schmidt, Squires, Stapleton, Story, Taylor, Tester, Toole, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 174 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 179, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Esp, McGee, Stapleton.
Total 3

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 182 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 185 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Curtiss, McNutt, Story.

Total 3

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 199, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 220, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum,

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McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 236 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 237, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 45

Nays: Elliott, McNutt, Mr. President.

Total 3

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

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HB 284 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 285, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 312 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Mangan, Sprague.
Total 2

HB 315, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 319 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 368 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: Mangan, Sprague.

Total 2

HB 416 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 420 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Gebhardt.

Total 1

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 441 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

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Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 480, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Stapleton.
Total 1

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 573, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 584, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 610, as amended by the Senate, failed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 616 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HB 618, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 41

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Nays: Barkus, Cobb, Esp, Gebhardt, McNutt, Stapleton, Mr. President.
Total 7

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 627 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HB 711 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Ryan.
Total 1

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

HJR 8, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

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Total 39

Nays: Bales, Barkus, Butcher, Esp, Gebhardt, McGee, O'Neil, Taylor, Zook.

Total 9

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HJR 10 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 45

Nays: Butcher, Esp, Zook.

Total 3

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HJR 11 concurred in as follows:

Yeas: Anderson, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Mr. President.

Total 41

Nays: Bales, Esp, McGee, Stapleton, Thomas, Zook.

Total 6

Absent or not voting: Black.

Total 1

Excused: Mangan, Sprague.

Total 2

HJR 20 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy,

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McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Esp, McGee, Schmidt.

Total 3

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HJR 24 failed as follows:

Yeas: Anderson, Black, Bohlinger, Cobb, Cocchiarella, Cromley, Ellingson, Gebhardt, Grimes, Hansen, Johnson, Laible, McCarthy, Pease, Shea, Stapleton, Stonington, Taylor, Mr. President.

Total 19

Nays: Bales, Barkus, Butcher, Cooney, Curtiss, DePratu, Elliott, Esp, Glaser, Harrington, Kitzenberg, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Squires, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 29

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

HJR 28 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 43

Nays: Curtiss, Esp, Mahlum, Tester, Zook.

Total 5

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

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HJR 34 concurred in as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Zook, Mr. President.
Total 38

Nays: Anderson, Cobb, Elliott, Mahlum, McCarthy, Ryan, Shea, Squires, Tester, Wheat.
Total 10

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. **President Keenan retained the chair.**

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 585 - Senator Nelson moved **HB 585** be concurred in. Motion carried unanimously.

Senator Nelson assumed the chair.

SB 469 - Senator Elliott moved **SB 469** do pass. Motion carried as follows:

Yeas: Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Kitzenberg, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Zook.
Total 28

Nays: Anderson, Bales, Barkus, Cromley, Curtiss, Esp, Gebhardt, Grimes, Johnson, Laible, Mahlum, McCarthy, McGee, O'Neil, Perry, Stapleton, Taylor, Thomas.
Total 18

Absent or not voting: None.
Total 0

Excused: Black, Mangan, Sprague, Mr. President.
Total 4

SB 443 - Senator Taylor moved **SB 443** do pass. After discussion, Senator Cobb made a **substitute motion** that **SB 443**, second reading copy, be amended as follows:

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1. Title, page 1, line 8.

Following: "CREDIT;"

Insert: "PROVIDING A CONTINGENT VOIDNESS PROVISION;"

2. Page 1.

Following: line 30

Insert: "NEW SECTION. **Section 3. Contingent voidness.** If Senate Bill No. 351 is not passed and approved, then [this act] is void."

Amendment **adopted** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Johnson, Kitzenberg, McCarthy, Nelson, O'Neil, Pease, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 25

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, Perry, Roush, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

SB 443 - Senator Taylor moved **SB 443**, as amended, do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, DePratu, Gebhardt, Glaser, Mahlum, McGee, McNutt, Ryan, Stapleton, Taylor, Thomas, Zook.
Total 18

Nays: Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, McCarthy, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Mr. President.
Total 30

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2

SB 443 - Senator Thomas moved SB 443 be **indefinitely postponed**. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, McCarthy, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Mr. President.
Total 32

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Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Glaser, Mahlum, McGee, McNutt, Taylor, Thomas, Zook.

Total 16

Absent or not voting: None.

Total 0

Excused: Mangan, Sprague.

Total 2

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Nelson moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 349 - Senator Anderson moved Senator Grimes be added as sponsor to **SB 349**. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, March 25, 2003. Motion carried.

Senate adjourned at 3:29 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTY-THIRD LEGISLATIVE DAY**

Helena, Montana
March 25, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Schmidt, excused. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-second legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **SB 54, SB 169, SB 190, SB 197, SB 277, SB 289, SB 298, SB 388, SB 433, SB 435, SB 527, SB 653.**

Correctly enrolled: **SB 109, SB 143.**

BUSINESS AND LABOR (Mahlum, Chairman):
HB 507, be concurred in. Report adopted.

3/24/2003

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):
HJR 12, be concurred in. Report adopted.

3/25/2003

JUDICIARY (Grimes, Chairman):
HB 155, be amended as follows:

3/25/2003

1. Page 54, line 16.

Following: "instruction."

Insert: "(1)"

Strike: "___ Bill No. ___ [LC219]"

Insert: "House Bill No. 87"

2. Page 54.

Following: line 18

Insert: "(2) If House Bill No. 201 and [this act] are both passed and approved, then:

(a) [section 13] of House Bill No. 201, amending 13-13-211, is void and [section 35] of [this act], amending 13-13-211, must read as follows:

Insert: "**Section 35.** Section 13-13-211, MCA, is amended to read:

"13-13-211. Time period for application. ~~An~~ (1) Except as provided in 13-13-222, [section 4 of House Bill No. 201], and subsection (2) of this section, an application for an absentee ballot must be made during a period beginning 75 days before the day of election and ending at noon on the day before the election.

(2) ~~However, a~~ A qualified elector who is prevented from voting at the polls as a result of illness or health emergency occurring between 5 p.m. of the Friday preceding the election and noon on election day may request to vote by absentee ballot as provided in 13-13-212(3)."

(b) [section 16] of House Bill No. 201, amending 13-13-214, is void and [section 37 of this act], amending 13-13-214, must read as follows:

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Insert: "Section 37. Section 13-13-214, MCA, is amended to read:

"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector. (1) (a) Except as provided in 13-13-213 and in subsection (1)(b) of this section, as soon as the official paper absentee ballots are printed, the election administrator shall immediately send by mail, postage prepaid, to each elector from whom the election administrator has received a valid application under 13-13-211 and 13-13-212 whatever official ballots are necessary. ~~Ballots must be sent immediately to electors submitting valid requests after the official ballots are printed.~~

(b) The election administrator may deliver a ballot in person to an individual other than the elector if:

- (i) the elector has designated the individual, either by a signed letter or by making the designation on the application form in a manner prescribed by the secretary of state;
- (ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of the ballot;
- (iii) the election administrator believes that the individual receiving the ballot is the designated person; and
- (iv) the designated person has not previously picked up ballots for four other electors.

(2) The election administrator shall enclose with the ballots:

- (a) a secrecy envelope, free of any marks that would identify the voter; and
- (b) ~~a self-addressed an~~ envelope for the return of the ballots. An The envelope must be self-addressed by the election administrator and an affirmation in the form prescribed by the secretary of state must be printed on the back of the envelope.

(3) The election administrator shall ~~stamp~~ ensure that the ballots provided to an absentee elector are marked as provided in 13-13-116 and remove the stubs from the ballots, attaching the stubs to the elector's absentee ballot application.

~~(4) Both the envelope in which the ballot is mailed to an elector in the United States service and the return envelope must have printed across the face the information and graphics and be of the color prescribed by the secretary of state consistent with the regulations established by the federal election commission, the U.S. postal service, or other federal agency.~~

~~(5)(4)~~ If the ballots sent to the elector are for a primary election, the election administrator shall enclose an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any way so that it can be identified as being used by any one elector.

~~(6)(5)~~ Instructions for voting must be enclosed with the ballots. Instructions for primary elections must include use of the envelope for unvoted ballots. The instructions must include information concerning the type or types of writing instruments that may be used to mark the absentee ballot. The instructions must include information regarding use of the secrecy envelope and use of the return ~~and verification~~ envelope. The election administrator shall include a voter information pamphlet with the instructions if:

- (a) a statewide ballot issue appears on the ballot mailed to the elector;
- (b) the elector is out of the state or will be out of the state at the time of the election; and
- (c) the elector requests a voter information pamphlet.

~~(7) The return envelope must be self-addressed to the election administrator."~~

(3) If both [this act] and House Bill No. 190 are passed and approved, then:

- (a) [section 40 of this act], amending 13-13-231, is void.
- (b) [section 41 of this act], amending 13-13-232, is void.
- (c) [section 44 of this act], amending 13-13-241, is void.
- (d) [section 45 of this act], amending 13-13-244, must read as follows:

"Section 45. Section 13-13-244, MCA, is amended to read:

"13-13-244. Opening of return envelopes after deposit. If ~~an~~ a return envelope containing an absentee ballot has been deposited unopened in the ballot box and the envelope has not been marked rejected, the return envelope ~~shall~~ must be opened without a court order and the ballot cast processed as provided in 13-13-241."

And, as amended, be concurred in. Report adopted.

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HB 224, be amended as follows:

1. Title, line 6.

Following: the first "OF"

Strike: "DISTRICT COURTS TO SET THE COMPENSATION OF"

Insert: "COUNTIES TO APPOINT"

2. Title, page 7 through page 8.

Following: "MASTERS;" on line 7

Strike: remainder of line 7 through "COURT;" on line 8

3. Title, line 10 through line 11.

Following: "SYSTEM;" on line 10

Strike: remainder of line 10 through the first "MCA;" on line 11

4. Title, line 11.

Following: "REPEALING"

Strike: "SECTION"

Insert: "SECTIONS 3-5-123 AND"

5. Page 1, line 16 through line 26.

Strike: section 1 in its entirety

Renumber: subsequent sections

6. Page 1, line 28.

Following: "Repealer."

Strike: "Section"

Insert: "Sections 3-5-123 and"

Following: "MCA,"

Strike: "is"

Insert: "are"

And, as amended, be concurred in. Report adopted.

HB 308, be amended as follows:

1. Title, line 4.

Following: "CLARIFYING"

Strike: "THAT A"

Insert: "THE REQUIREMENTS FOR"

Following: "VIOLENT"

Strike: "OFFENDER MUST"

Insert: "OFFENDERS TO"

2. Title, line 6.

Strike: "PROVIDING THAT A"

Insert: "REQUIRING CERTAIN"

Following: "VIOLENT"

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Strike: "OFFENDER"
Insert: "OFFENDERS"
Following: "WHO"
Strike: "IS"
Insert: "ARE"
Following: "REGISTER"
Strike: "MUST"
Insert: "TO"

3. Page 2, line 6.
Following: "(5)"
Insert: "(a)"
Strike: "The"
Insert: "An"
Following: "responsible"
Insert: "who was given a level 3 designation under 46-23-509"

4. Page 2, line 13.
Following: line 12
Insert: "(b) An offender not required to pay costs by subsection (5)(a) shall, if able, pay the costs required by subsection (5)(a) if the court, in its discretion, orders the offender to pay."

5. Page 3, line 19.
Following: "(4)"
Insert: "(a)"
Strike: "The"
Insert: "An"
Following: "offender"
Insert: "who was given a level 3 designation under 46-23-509"

6. Page 3, line 24.
Following: line 23
Insert: "(b) An offender not required to pay costs by subsection (4)(a) shall, if able, pay the costs required by subsection (4)(a) if the court, in its discretion, orders the offender to pay."

And, as amended, be concurred in. Report adopted.

HB 453, be amended as follows:

1. Title, page 1, line 4.
Strike: "AND"
Insert: ", "

2. Title, page 1, line 5.
Following: "INCOME"
Insert: ", AND ASSETS"

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3. Page 2, line 8.

Following: "(4)"

Insert: "An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the department for reasonable costs incurred by the department for the inmate's medical and dental expenses."

4. Page 2, line 9.

Following: "expenses"

Insert: "any assets of the inmate or"

Strike: "earned by or accruing to an"

Insert: "of the"

And, as amended, be concurred in. Report adopted.

HB 496, be concurred in. Report adopted.

HB 521, be amended as follows:

1. Title, line 7.

Following: "FACILITY;"

Strike: "AND"

2. Title, line 8.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 2, line 1.

Following: "and is"

Strike: "only"

Following: "payable"

Insert: "only"

4. Page 2, line 9.

Following: "officer"

Strike: "of this state"

Following: "facility"

Insert: "of this state"

5. Page 2, line 13.

Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

3/24/2003

HB 499, be amended as follows:

1. Page 7, line 15.

Strike: "in" through "department"

And, as amended, be concurred in. Report adopted.

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HB 647, be amended as follows:

1. Title, page 1, line 10.

Strike: "50-16-205,"

2. Page 1, line 25.

Strike: "or"

Following: "dentists"

Insert: ", physician assistants-certified, professional counselors, or social workers"

3. Page 1, line 29.

Strike: "medical treatment"

Insert: "health services"

4. Page 2, line 1.

Strike: "medical or surgical care or"

Insert: "health"

Following: "services"

Insert: "and to control access to protected health care information"

5. Page 2, line 2.

Strike: "medical or surgical care or"

Insert: "health"

6. Page 2, line 3.

Following: "state"

Insert: "a"

Strike: "an unemancipated"

Insert: "a"

7. Page 4, line 20 through line 24.

Strike: section 6 in its entirety

Renumber: subsequent sections

8. Page 7, line 11.

Strike: "consented"

Insert: "authorized"

Following: "writing"

Strike: "to"

9. Page 10, line 23.

Following: "Sections"

Strike: "16"

Insert: "15"

10. Page 10, line 28.

Following: "sections"

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Strike: "16"

Insert: "15"

11. Page 12, line 1.

Strike: "A"

Insert: "To the extent provided in 39-71-604 and 50-16-527, a"

12. Page 12, line 3 through line 11.

Following: "provider." on line 3

Strike: "The" through "law." on line 11

13. Page 12, line 21.

Strike: "consented"

Insert: "authorized"

Following: "writing"

Strike: "to"

14. Page 13, line 10.

Following: "Sections"

Strike: "16"

Insert: "15"

15. Page 13, line 13.

Insert: "NEW SECTION. Section 21. Method of compulsory process. (1) Unless the court for good cause shown determines that the notification should be waived or modified, if health care information is sought under [section 20(1)(b), (1)(d), or (1)(e)] or in a civil proceeding or investigation under [section 20(1)(i)], the person seeking compulsory process or discovery shall mail a notice by first-class mail to the patient or the patient's attorney of record of the compulsory process or discovery request at least 10 days before presenting the certificate required under subsection (2) of this section to the health care provider.

(2) Service of compulsory process or discovery requests upon a health care provider must be accompanied by a written certification, signed by the person seeking to obtain health care information or by the person's authorized representative, identifying at least one subsection of [section 20] under which compulsory process or discovery is being sought. The certification must also state, in the case of information sought under [section 20(1)(b), (1)(d), or (1)(e)] or in a civil proceeding under [section 20(1)(i)], that the requirements of subsection (1) of this section for notice have been met. A person may sign the certification only if the person reasonably believes that the subsection of [section 20] identified in the certification provides an appropriate basis for the use of compulsory process or discovery. Unless otherwise ordered by the court, the health care provider shall maintain a copy of the process and the written certification as a permanent part of the patient's health care information.

(3) In response to service of compulsory process or discovery requests, when authorized by law, a health care provider may deny access to the requested health care information. If access to requested health care information is denied by the health care provider, the health care provider shall submit to the court by affidavit or other reasonable means an explanation of why the health care provider believes that the information should be protected from disclosure.

(4) When access to health care information is denied, the court may order disclosure of health care information, with or without restrictions as to its use, as the court considers necessary. In deciding whether to order disclosure, the court shall consider the explanation submitted by the health care provider and any arguments presented by interested parties.

(5) A health care provider required to disclose health care information pursuant to compulsory process may charge a reasonable fee, not to exceed the fee provided for in [section 22], and may deny examination or copying of the information until the fee is paid.

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(6) Production of health care information under [section 20] and this section does not in itself constitute a waiver of any privilege, objection, or defense existing under other law or rule of evidence or procedure."

Renumber: subsequent sections

16. Page 13, line 19.

Following: "sections"

Strike: "16"

Insert: "15"

17. Page 13, line 21.

Following: "sections"

Strike: "16"

Insert: "15"

18. Page 13, line 24.

Following: "sections"

Strike: "16"

Insert: "15"

19. Page 13, line 26.

Following: "sections"

Strike: "16"

Insert: "15"

20. Page 14, line 2.

Following: "sections"

Strike: "16"

Insert: "15"

21. Page 14, line 4.

Following: line 3

Insert: "(7) A health care provider who relies in good faith upon certification pursuant to [section 21] is considered to have received reasonable assurances and is not liable for disclosures made in reliance on that certification."

22. Page 14, line 9.

Strike: "9"

Insert: "8"

23. Page 14, line 11.

Strike: "9"

Insert: "8"

24. Page 14, line 12.

Strike: "16"

Insert: "15"

25. Page 14, line 13.

Strike: "16"

Insert: "15"

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And, as amended, be concurred in. Report adopted.

HB 681, be amended as follows:

1. Page 2, line 4.

Strike: "37-7-701"

Insert: "37-7-101"

And, as amended, be concurred in. Report adopted.

HB 693, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

3/25/2003

HB 218, be amended as follows:

1. Page 1, line 6.

Strike: "PROVIDE" through "REPORT."

2. Title, page 1, line 7.

Strike: "POST" through "BOND."

3. Title, page 1, line 9.

Strike: "EQUIPMENT PURCHASE."

4. Title, page 1, line 15.

Strike: "TRANSPORTERS"

Insert: "OWNERS"

5. Title, page 1, line 23.

Strike: "CONSTRAINTS ON"

Insert: "RECOMMENDATIONS FOR"

6. Title, page 1, line 27.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

7. Page 2, line 1.

Strike: "12"

Insert: "10"

8. Page 2, line 4.

Strike: "12"

Insert: "10"

Strike: ":",

9. Page 2, line 5.

Strike: "(1)"

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10. Page 2, line 7 through line 10.

Strike: " AND" on line 7 through "ENVIRONMENT" on line 10

11. Page 2, line 12.

Strike: "12"

Insert: "10"

12. Page 2, line 30.

Strike: "EQUIPMENT PURCHASE."

13. Page 3, line 8.

Strike: " IF FEDERAL FUNDING IS INSUFFICIENT FOR TRAINING"

Following: " 1"

Insert: "and"

14. Page 3, line 10.

Strike: " 1"

Insert: " 1"

15. Page 3, lines 11 through 16.

Strike: subsections (2)(d), (2)(e), and (2)(f) in their entirety

16. Page 3, line 17.

Strike: "10(3)"

Insert: "9(3)"

17. Page 3, lined 23 through 24.

Strike: first "TRANSPORTER" on line 23

Insert: "owner"

Strike: "A TRANSPORTER" on line 23 through "SHIPMENTS OF" on line 24

Insert: "Prior to shipping"

Following: "STATE"

Strike: "WITHOUT PROVIDING"

Insert: ", an owner and the originating shipper if not the owner shall provide to the transporter and"

18. Page 3, line 25.

Following: "DIVISION"

Strike: "IN ADVANCE OF SHIPMENT"

Insert: ", within limits set by the regulating federal authority"

19. Page 3, lines 27 through 28.

Strike: "REPORT" on line 27

Insert: "plan"

Strike: "FORWARDED"

Insert: "submitted"

Strike: "DEPARTMENT" through the second "RAIL SHIPMENTS." on line 28

Insert: "disaster and emergency services division"

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20. Page 3, line 30.

Strike: "AND"

21. Page 4, line 1.

Strike: "BY CREW MEMBERS"

Insert: "of an owner's escorts"

22. Page 4, line 2.

Strike: "(C) A SAFETY PLAN THAT INCLUDES:"

23. Page 4, line 3.

Strike: "(I)"

Insert: "(iii)"

24. Page 4, line 4.

Strike: "(II)"

Insert: "(iv)"

25. Page 4, line 5.

Strike: "(III)"

Insert: "(v)"

26. Page 4, line 6.

Strike: "(D)"

Insert: "(c)"

Renumber: subsequent subsections

Strike: "TRANSPORTER"

Insert: "owner and the originating shipper if not the owner"

27. Page 4, line 8.

Strike: first "TRANSPORTER"

Insert: "owner"

Strike: second "TRANSPORTER"

Insert: "owner"

28. Page 4, lines 9 through 11.

Strike: "FOR \$25 MILLION" on line 9 through "SPILLING" on line 11

Insert: "as required by the regulating federal authority"

29. Page 4, line 14.

Strike: "A TRANSPORTER"

Insert: "An owner or the originating shipper if not the owner"

30. Page 4, line 15.

Strike: "NUCLEAR REGULATORY COMMISSION"

Insert: "regulating federal authority"

31. Page 4, line 23 through line 30.

Strike: "AND THE BOARDS" on line 23 through "NOTIFICATION LIST" on line 30

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Insert: "or other agencies as appropriate"

32. Page 5, line 2.

Strike: "9"

Insert: "8"

33. Page 5, lines 10 through 11.

Strike: "THAT IS" on line 10 through "carrier" on line 11

Insert: "designed for transport by truck"

34. Page 5, line 12.

Following: "cask"

Strike: "that is" through "state"

Insert: "designed for transport by rail"

35. Page 5, line 13.

Following: "cask"

Insert: "designed for transport by rail"

36. Page 5, line 17.

Strike: "AND TO THE TRANSPORTER"

Strike: "ONE-TRIP"

37. Page 5, line 30 through page 6, line 11.

Strike: section 8 in its entirety

Renumber: subsequent sections

38. Page 6, lines 25 through 26.

Strike: "MAY BE" on line 25 through "ROUTES" on line 28

Insert: "must be determined by the department of transportation and the appropriate regulating federal authority"

39. Page 7, line 9.

Following: "TRANSURANIC WASTE"

Insert: "may not"

Strike: "NO MORE"

Insert: "greater"

40. Page 7, line 10.

Strike: "40 MILES AN HOUR"

Insert: "the speed required by federal regulations"

41. Page 7, line 16.

Strike: "12"

Insert: "10"

42. Page 7, line 28.

Strike: "12"

Insert: "10"

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43. Page 8, line 1.

Strike: "A person or entity"

Insert: "An owner"

44. Page 8, line 2.

Strike: "10"

Insert: "9"

45. Page 8, line 4.

Following: "ANY"

Insert: "other"

Strike: "ASSESSED" through "12"

46. Page 8, line 5.

Strike: "TRANSPORTATION"

Insert: "justice"

47. Page 8, lines 7 through 9.

Strike: section 12 in its entirety

Renumber: subsequent sections

48. Page 8, line 11.

Strike: "12"

Insert: "10"

49. Page 8, line 13.

Strike: "12"

Insert: "10"

50. Page 8, line 20.

Strike: "ON PASSAGE AND APPROVAL"

Insert: "January 1, 2004"

And, as amended, be concurred in. Report adopted.

HB 253, be amended as follows:

1. Page 2.

Following: line 1

Insert: "NEW SECTION. Section 2. Coordination instruction. If [this act] and House Bill No. 468 are both passed and approved, then [section 1 of this act], amending 13-35-225, must read as follows:

"Section 1. Section 13-35-225, MCA, is amended to read:

"13-35-225. Election materials not to be anonymous -- statement of accuracy -- prohibition. (1)(a) ~~Whenever a person makes an expenditure for the purpose of financing~~ All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, ~~internet website~~, or other form of general political advertising; ~~the communication~~ the communication must clearly and conspicuously ~~state~~ include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication; including in ~~When a candidate or a candidate's campaign finances the expenditure, the attribution must be the name and the address of the~~

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candidate or the candidate's campaign. In the case of a political committee, the attribution must be the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.

(b) Communications in a partisan election financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

(c) (i) Printed election material described in subsection (1)(a) that includes information about a candidate's voting record must include a reference to the particular vote or votes upon which the information is based and a statement, signed as provided in subsection (1)(c)(ii), that to the best of the signer's knowledge, the statements made about the candidate's voting record are accurate and true.

(ii) The statement must be signed:

(A) by the candidate if the election material was prepared for the candidate or the candidate's political committee and includes information about another candidate's voting record; or

(B) by the person financing the communication or the person's legal agent if the election material was not prepared for a candidate or a candidate's political committee.

(2) The state seal may not be used in any election material described in this section.

(3) If a document or other article of advertising is too small for the requirements of subsection (1) to be conveniently included, the person financing the communication shall file a copy of the article with the commissioner of political practices, together with the required information, prior to its public distribution.

(4) If information required in subsection (1) is inadvertently omitted or not printed, upon discovering discovery of or notification about the omission, the candidate responsible for the material or the person financing the communication shall:

(a) file notification of the omission with the commissioner of political practices within 5 days of the discovery or notification; and make every reasonable effort to

(b) bring the material into compliance with subsection (1) within 2 weeks; and

(c) withdraw any noncompliant communication from circulation as soon as reasonably possible.'''

And, as amended, be concurred in. Report adopted.

HB 468, be concurred in. Report adopted.

HB 532, be amended as follows:

1. Page 1, line 14.

Strike: "The"

Insert: "Except as provided in subsection (2), the"

2. Page 2, line 1.

Following: "held"

Insert: "as provided in this subsection"

And, as amended, be concurred in. Report adopted.

HB 686, be concurred in. Report adopted.

HB 731, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 24, 2003

The Honorable Bob Keenan

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President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 3** sponsored by Senator Harrington, **Senate Bill 14** sponsored by Senator McCarthy, **Senate Bill 17** sponsored by Senator McGee, **Senate Bill 21** sponsored by Senator McNutt, **Senate Bill 27** sponsored by Senator Johnson, **Senate Bill 32** sponsored by Senator Mahlum, **Senate Bill 33** sponsored by Senator Cobb, **Senate Bill 38** sponsored by Senator Mahlum, and **Senate Bill 40** sponsored by Senator Mahlum on March 24, 2003.

Sincerely,

JUDY MARTZ
Governor

MOTIONS

HB 610 - Senator Butcher moved the Senate reconsider its action in failing to concur in **HB 610** on third reading the previous legislative day. Motion carried.

HB 610 - Senator Butcher moved **HB 610** be placed on second reading the sixty-fourth legislative day, March 26, 2003. Motion carried.

SB 470 - Senator Mangan moved Black, Bohlinger, Cocchiarella, Cromley, DePratu, Ellingson, Glaser, Mahlum, McNutt, Sprague, Stapleton, Stonington, Story, Taylor and Wheat be added as sponsors to **SB 470**. Motion carried.

SB 332 and **SB 433** - Senator Thomas moved consideration of **SB 332** and **SB 433** on second reading this legislative day, be moved to second reading the 64th legislative day, March 26, 2003. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 484, introduced by Mangan, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Nelson in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 700 - Senator Laible moved **HB 700** be concurred in. After introduction, Senator Stonington moved **HB 700**, second reading copy, be amended as follows:

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1. Title, line 11.

Following: "SOURCES"

Insert: ", EXCEPT ANY POINT SOURCE DISCHARGES RELATED TO COAL BED METHANE DEVELOPMENT"

2. Page 14, line 5.

Following: "discharges"

Insert: ", except any point source discharges related to coal bed methane development"

Amendment **not adopted** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, Nelson, Pease, Roush, Ryan, Stapleton, Stonington, Tester, Toole, Tropila, Wheat, Zook.

Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Squires, Story, Tash, Thomas, Mr. President.

Total 26

Absent or not voting: Taylor.

Total 1

Excused: Schmidt.

Total 1

Senator Schmidt present at this time.

HB 700 - Senator Laible's motion that **HB 700** be concurred in carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Harrington, Laible, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Johnson, Kitzenberg, Mahlum, Mangan, Nelson, Pease, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 89 - Senator Tash moved **SB 89** do pass. Motion carried with Senators Barkus and Cobb voting nay.

SB 385 - Senator Mangan moved **SB 385** do pass. Motion carried as follows:

Yeas: Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires,

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Stapleton, Stonington, Tash, Taylor, Tester, Tropila, Wheat, Zook, Mr. President.
Total 33

Nays: Anderson, Bales, Black, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Story, Thomas, Toole.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 201 - Senator Wheat moved **HB 201** be concurred in. After discussion, Senator Wheat made a **substitute motion** that **HB 201**, second reading copy, be amended as follows:

1. Page 12, line 22.

Insert: "NEW SECTION. Section 25. Coordination instruction. If House Bill No. 190 and [this act] are both passed and approved, then [section 28 of House Bill No. 190] amending 13-13-212, is void and [section 14 of this act], amending 13-13-212, must read:

"Section 14. Section 13-13-212, MCA, is amended to read:

"13-13-212. Application for absentee ballot -- special provisions.(1) An elector may apply for an absentee ballot, using only a standardized form provided by rule by the secretary of state, by making a written request, which must include the applicant's birth date and must be signed by the applicant, The request must be submitted to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

~~_____ (2) An elector in the United States service absent from the state and county in which the elector is registered may apply for an absentee ballot as follows:~~

~~_____ (a) as provided in subsection (1);~~

~~_____ (b) by using the federal postcard application signed by the applicant and made within the time period specified in 13-13-211; or~~

~~_____ (c) if eligible, by using the federal write-in ballot as provided in 13-13-271(3).~~

~~(3)~~(2) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot is delivered in person by the special absentee election board provided for in 13-13-225.

(b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered by the special absentee election board at the elector's place of confinement, hospitalization, or residence within the county.

(c) A request under this subsection ~~(3)~~ (2) must be received by the election administrator by noon on election day.

~~(4)~~(3) An elector who has made a request for an absentee ballot by one of the methods provided in this section may, in the event of the death of a candidate after the primary election but before the general election, make a request for a replacement ballot. The request for a replacement ballot may be made orally to the election administrator.""

Amendment **adopted** unanimously.

HB 201 - Senator Wheat moved **HB 201**, as amended, be concurred in. Motion carried unanimously.

HB 222 - Senator Grimes moved **HB 222** be concurred in. Motion carried unanimously.

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HB 272 - Senator Johnson moved **HB 272** be concurred in. Motion carried with Senators Barkus, Esp and O'Neil voting nay.

HB 414 - Senator Pease moved **HB 414** be concurred in. Motion carried with Senators McGee, Ryan and Schmidt voting nay.

HB 548 - Senator Gebhardt moved **HB 548** be concurred in. Motion carried with Senator McGee voting nay.

HB 557 - Senator Bohlinger moved **HB 557** be concurred in. Motion carried unanimously.

HB 639 - Senator Cooney moved **HB 639** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 42

Nays: Black, Curtiss, Esp, Gebhardt, McGee, O'Neil, Perry, Stapleton.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 17 - Senator Bales moved **HJR 17** be concurred in. Motion carried with Senators Cromley, Esp, McGee and Stapleton voting nay.

HJR 30 - Senator Cobb moved **HJR 30** be concurred in. Motion carried as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 39

Nays: Bales, Barkus, Black, Butcher, Curtiss, Esp, Gebhardt, McGee, Perry, Stapleton, Story.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Nelson moved the Committee of the Whole report be adopted. Report adopted

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unanimously.

SPECIAL ORDERS OF THE DAY

A PROCLAMATION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES
OF THE STATE OF MONTANA

WHEREAS, Kristi Benson, an esteemed resident of Dillon and a student at Beaverhead County High, has achieved national recognition for exemplary volunteer service by receiving a 2003 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Benson earned this award by giving generously of her time and energy to create a non-profit organization that has raised more than \$27,000 to provide essential educational materials to public schools and students in her rural county that cannot afford to buy them; and

WHEREAS, the success of the State of Montana, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ms. Benson who use their considerable talents and resources to serve others;

NOW THEREFORE, pursuant to a motion of Senator Tash and Representative Barrett:

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA; that the 58th Legislature hereby congratulates and honors Ms. Benson as a recipient of a Prudential Spirit of Community Award, recognizes her outstanding record of volunteer service, peer leadership and community spirit, and extends best wishes for her continued success and happiness.

Senator Bill Tash

Representative Debby Barrett

Senator Bob Keenan
President of the Senate

Representative Doug Mood
Speaker of the House

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 469 passed as follows:

Yeas: Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 33

Nays: Anderson, Bales, Barkus, Black, Cromley, Curtiss, Esp, Gebhardt, Grimes, Johnson, Laible, McGee, O'Neil, Perry, Sprague, Stapleton, Mr. President.

Total 17

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 169, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Johnson, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 190, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 32

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Stonington, Tester, Toole, Tropila, Wheat.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 298, as amended by the Senate concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Curtiss.

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Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 585 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Bales, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

TAXATION (DePratu, Chairman):

3/25/2003

SB 462, introduced bill, be amended as follows:

1. Page 1, line 18.

Strike: "used"

Insert: "specifically designed"

2. Page 1, line 20.

Following: "or"

Insert: "wood waste"

3. Page 1, line 21.

Strike: "and"

4. Page 1, line 22.

Strike: "renewable and reclaimable resources"

Insert: "byproducts of reforestation and fire management projects associated with dead, dying, and small diameter trees;
and

(d) used to process or reclaim tires in a manner that involves destruction of the tire carcasses"

5. Page 1, lines 23 and 24.

Strike: "but are not limited to"

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6. Page 1, line 25.

Strike: "health"

Insert: "renovation"

7. Page 1, line 27 through line 29.

Strike: "nonhazardous" on line 27 through "waste" on line 29

Insert: "tires"

And, as amended, do pass. Report adopted.

SB 470, introduced bill, be amended as follows:

1. Title, page 1, lines 12 through 15.

Strike: "REDUCING" ON line 12 through "RELIEF;" on line 15

Insert: "REMOVING THE TRIGGER FOR THE PHASE-OUT ELIMINATION OF CLASS EIGHT PROPERTY TAX; PROVIDING AN INDIVIDUAL INCOME TAX CAPITAL GAINS CREDIT; PROVIDING AN INDIVIDUAL INCOME TAX AND CORPORATE LICENSE TAX CREDIT FOR THE AMOUNT OF PROPERTY TAXES PAID FOR STATEWIDE SCHOOL AND UNIVERSITY SYSTEM PROPERTY TAX LEVIES; PROVIDING A REFUNDABLE INDIVIDUAL INCOME TAX CREDIT TO OFFSET PAYMENT OF SALES TAXES DETERMINED BY HOUSEHOLD COMBINED FEDERAL ADJUSTED GROSS INCOME; CLARIFYING THE DEFINITION OF "CONSUMER PRICE INDEX" RELATING TO INDIVIDUAL INCOME TAX PROVISIONS; AMENDING THE LIMITATIONS ON RECEIPTS FROM POLITICAL COMMITTEES TO CONFORM TO THE CHANGE IN THE DEFINITION OF "CONSUMER PRICE INDEX"; AMENDING THE INDIVIDUAL INCOME TAX INCOME BRACKETS AND RATES; LIMITING THE INDIVIDUAL INCOME TAX DEDUCTION FOR FEDERAL INCOME TAX PAID; AMENDING THE AMOUNT OF INDIVIDUAL INCOME TAX DEDUCTION AND EXEMPTION AMOUNTS; ESTABLISHING A REVENUE STABILIZATION AND DISASTER ACCOUNT THAT CAN BE APPROPRIATED ONLY AFTER A DECLARATION BY THE GOVERNOR AND BY A TWO-THIRDS VOTE OF EACH HOUSE OF THE LEGISLATURE; PROVIDING FOR A REFUND OF EXCESS SALES TAX REVENUE WHEN THE REVENUE STABILIZATION AND DISASTER ACCOUNT REACHES A THRESHOLD AMOUNT;"

2. Title, page 1, line 17.

Following: "FUND;"

Insert: "PROVIDING A CONTINGENT VOIDNESS PROVISION;"

3. Title, page 1, line 17 through line 18.

Strike: "15-1-111, 15-1-112," line 17

Insert: "13-37-218,"

Strike: "15-10-420" on line 17 through "15-24-2002," on line 17

Insert: "15-6-138, 15-6-201, 15-16-101, 15-30-101, 15-30-103, 15-30-112, 15-30-121, 15-30-122, 15-30-142,"

Strike: "17-3-213,"

4. Title, page 1, line 19.

Strike: "20-5-324,"

Strike: "20-9-212,"

Strike: "20-9-331, 20-9-333,"

5. Page 1, line 20.

Strike: "20-9-347,"

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6. Title, page 1, line 21.

Following: "61-3-303,"

Insert: "AND"

Strike: "90-6-309, AND 90-6-403,"

Following: "MCA"

Insert: ", SECTION 25, CHAPTER 13, SPECIAL LAWS OF AUGUST 2002, AND SECTIONS 27 AND 31, CHAPTER 285, LAWS OF 1999"

Strike: "REPEALING SECTION 20-9-360, MCA;"

7. Title, page 1, line 22.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

8. Page 13, line 19.

Following: "following"

Insert: "business"

9. Page 13, line 25 through line 26.

Strike: ", except" on line 25 through "114)" on line 26

10. Page 14, line 23.

Strike: "exception"

Insert: "utilities"

11. Page 14, line 27.

Strike: "telecommunications services,"

Strike: "or"

Insert: "and"

12. Page 14, line 28.

Strike: "not"

13. Page 14, line 7.

Strike: "and"

14. Page 14, line 8.

Following: "5418)"

Insert: "; and

(j) fitness and recreational sports centers (NAICS industry 713940)"

15. Page 15, line 15.

Following: "Exemption"

Insert: " -- motor vehicles"

Following: "fuel."

Insert: "(1) The sale and use of a vehicle with a gross vehicle weight in excess of 12,000 pounds that is subject to a tax or fee imposed under Title 61, chapter 3, part 5, are exempt from the sales tax and use tax."

Renumber: subsequent subsections

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16. Page 16, line 5.

Following: "property"

Insert: ", other than a motor vehicle,"

17. Page 18, line 13.

Strike: "to miner or manufacturer"

Insert: "for manufacturing and mining uses"

Following: "sale"

Insert: "or use"

Following: "property"

Insert: "or a service"

18. Page 18, line 14.

Strike: "engaged in the business of mining or manufacturing"

19. Page 18, line 15.

Strike: "and"

20. Page 18, line 16 through line 20.

Strike: subsection (b) in its entirety

Insert: "(b) the purchaser is engaged in and uses the property or service in either of the following:

(i) mining. For the purposes of this section, the term "mining" means the carrying on of operations of any kind for the purpose of extracting from the earth any mineral, as defined in 15-38-103, and includes operations of any kind for the extraction of any mineral from any other mineral. The term does not include manufacturing.

(ii) manufacturing. For the purposes of this section, the term "manufacturing" has the meaning provided in the North American Industry Classification System Manual (1997) prepared by the United States office of management and budget.

(c) (i) the purchaser incorporates the property as an ingredient or component part of the product in the business of mining or manufacturing; or

(ii) the purchaser uses the property to extract a mineral and the property is required to be abandoned in place, in accordance with state regulations, when production of the mineral from a mine or wellhead permanently ceases.

(2) The sale or use of any chemical, reagent, or other substance that is used or consumed in the processing of ores or petroleum in a mill, smelter, refinery, or reduction facility or in acidizing oil wells is nontaxable if the purchaser has an exemption certificate and the purchaser is engaged in and uses the property or service in mining or manufacturing."

Renumber: subsequent subsection

21. Page 24, line 22.

Strike: "\$100 a month"

Insert: "\$2,500 a quarter"

22. Page 26, line 21.

Strike: "monthly"

23. Page 26, line 22 through line 25.

Following: "location"

Insert: "for each filing period"

Strike: "1.5%" on line 22 through "less" on line 25

Insert: "5% of tax liability up to \$100 and 0.5% of tax liability over \$100, not to exceed \$50 for each filing period"

Renumber: subsequent subsection

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24. Page 36, line 14 through page 37, line 1.

Strike: line 14 through line 1 in their entirety

Insert: "(a) for collections made during calendar year 2004:

(i) to direct state aid to schools, in an amount equal to the difference between 44.7% and 80% of the basic entitlement plus the 40% of the special education allowable cost payment; and

(ii) of the remainder:

(A) 60% to the revenue stabilization and disaster account established in [section 62]; and

(B) 40% to the state general fund;

(b) for collections made between January 1, 2005, and June 30, 2005:

(i) the amount necessary to the state general fund for reimbursement for increased direct state aid to schools, the tax credits for payments of statewide school levies, the low-income sales tax refundable income tax credit, the reduction of income tax rates, and the capital gains income tax credit; and

(ii) the balance to the revenue stabilization and disaster account established in [section 62];

(c) for each fiscal year beginning after June 30, 2005:

(i) the amount necessary to the state general fund for reimbursement for increased direct state aid to schools, the tax credits for payments of statewide school levies, the low-income sales tax refundable income tax credit, the reduction of income tax rates, and the capital gains income tax credit; and

(ii) the balance to the revenue stabilization and disaster account established in [section 62]."

Renumber: subsequent subsections

25. Page 37, line 6 through page 44, line 17.

Strike: sections 62 through 64 in their entirety

Insert: "NEW SECTION. Section 62. Revenue stabilization and disaster account. (1) There is within the state special revenue fund a revenue stabilization and disaster account. Except as provided in subsection (4), money in the account may be used only for extraordinary expenses relating to disasters or fiscal emergencies related to unanticipated sales tax revenue shortfalls. To appropriate money in the account, the governor shall declare that either a disaster or fiscal emergency as contemplated by this section exists and the legislature shall pass an implementing appropriation measure by a two-thirds vote of those present and voting in each house.

(2) The revenue stabilization and disaster account must be managed by the department of administration. Interest earned on the account must be retained in the state special revenue fund.

(3) Except as provided in subsection (4), the revenue stabilization and disaster account is limited to an amount equal to 6% of all general fund appropriations for the biennium, including statutory appropriations of the general fund. The amount in excess of the account limit must be distributed as provided in subsection (4).

(4) (a) If on July 1 the balance in the revenue stabilization and disaster account exceeds the account limit by at least \$15 million, the legislature may transfer an amount not to exceed 20% over the account limit to the state general fund and shall appropriate at least 80% of the amount in excess of the account limit to the department of revenue for distribution as a refund to income taxpayers who filed an income tax return for taxes due under 15-30-103 for the sales tax refund tax year. The sales tax refund tax year is the income tax year immediately preceding the previous calendar year. The amount available for refund must be refunded on a pro rata basis to each taxpayer who filed a state income tax return, pursuant to 15-30-103, for the sales tax refund tax year. The amount must be calculated by the department of revenue by dividing the amount available for refund by the total individual income tax liability as determined by the department from all returns for the sales tax refund tax year. The department of revenue shall calculate the amount of each taxpayer's refund based on the amount in the "total tax" line of the taxpayer's return. A refund may not be issued if the amount of the refund is \$10 or less. The payments must be mailed to the most current address for the taxpayer on the department's records no later than December 15.

(b) For the purposes of this subsection (4):

(i) the term "taxpayer" does not include a fiduciary or a beneficiary of an estate or trust who was required to file an income tax return pursuant to 15-30-135 unless a return was filed on behalf of a decedent;

(ii) a return filed using the filing status married filing jointly is considered to have been filed by a single

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taxpayer.

(5) The limit on the revenue stabilization and disaster account in subsection (3) must be multiplied by the inflation factor, as defined in 15-30-101, each year."

Insert: "NEW SECTION. Section 63. Sales tax refundable income tax credit. (1) One individual taxpayer in each household is allowed a credit against the taxes imposed by 15-30-103 to partially offset the payment of household sales taxes in an amount that is a percentage of the household combined federal adjusted gross income, as follows:

Household Combined Federal Adjusted Gross Income	Percentage Allowed
\$15,000 or less	3.1%
\$20,001 to \$25,000	1.15%
\$25,001 to \$30,000	0.575%
\$30,001 to \$35,000	0.30%
Over \$35,000	0.1%

(2) If the amount of the credit determined under subsection (1) is more than the amount of tax owed under 15-30-103, the excess must be refunded to the taxpayer.

(3) A fiduciary or a beneficiary of an estate or trust who was required to file an income tax return pursuant to 15-30-135 is not considered a taxpayer unless a return was filed on behalf of the decedent for the previous year."

Insert: "NEW SECTION. Section 64. Capital gains credit. An individual taxpayer is allowed a credit against the taxes imposed by 15-30-103 in an amount equal to 2% of the taxpayer's net capital gains as shown on the taxpayer's individual income tax return filed pursuant to 15-30-142. The credit allowed under this section may not exceed the taxpayer's income tax liability."

Insert: "NEW SECTION. Section 65. School equalization credit for individual. (1) (a) A taxpayer is entitled to a credit against the taxes imposed in 15-30-103.

(b) The amount of the credit is equal to the amount of property tax reported to the taxpayer under 15-16-101(2)(a)(vii) for the levies imposed in 15-10-107, 20-9-331, 20-9-333, and 20-9-360, not to exceed \$5,000.

(c) If the amount of the credit determined under this subsection (1) is more than the amount of tax owed under 15-30-103, the excess must be refunded to the taxpayer.

(2) A return filed using the filing status married filing jointly is considered to have been filed by one taxpayer.

(3) A fiduciary or a beneficiary of an estate or trust who was required to file an income tax return pursuant to 15-30-135 is not considered a taxpayer unless a return was filed on behalf of the decedent for the previous year."

Insert: "NEW SECTION. Section 66. State equalization credit -- penalty for violation. (1) A person who falsely or fraudulently claims the credit allowed in [section 65] shall pay as a penalty an amount equal to three times the amount of the credit claimed.

(2) The penalty imposed in this section is in addition to any other penalty imposed under this chapter and must be paid to the department for deposit in the state general fund."

Insert: "NEW SECTION. Section 67. School equalization credit for business. (1) (a) A taxpayer is entitled to a credit against the taxes imposed under this chapter.

(b) The amount of the credit is equal to the amount of property tax reported to the taxpayer under 15-16-101(2)(a)(vii) for the levies imposed in 15-10-107, 20-9-331, 20-9-333, and 20-9-360, not to exceed \$5,000.

(c) If the amount of the credit determined under this subsection (1) is more than the amount of tax owed under this chapter, the excess must be refunded to the taxpayer.

(2) If the credit under this section is claimed by a small business corporation, as defined in 15-30-1101, or a partnership, the credit must be attributed to shareholders or partners using the same proportion used to report the corporation's or partnership's income or loss for Montana income tax purposes."

Insert: "NEW SECTION. Section 68. State equalization credit -- penalty for violation. (1) A person who falsely

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or fraudulently claims the credit allowed in [section 67] shall pay as a penalty an amount equal to three times the amount of the credit claimed.

(2) The penalty imposed in this section is in addition to any other penalty imposed under this chapter and must be paid to the department for deposit in the state general fund."

Insert: "Section 69. Section 13-37-218, MCA, is amended to read:

"13-37-218. Limitations on receipts from political committees. A candidate for the state senate may receive no more than ~~\$1,000~~ \$2,300 in total combined monetary contributions from all political committees contributing to the candidate's campaign, and a candidate for the state house of representatives may receive no more than ~~\$600~~ \$1,400 in total combined monetary contributions from all political committees contributing to the candidate's campaign. The limitations in this section must be multiplied by the inflation factor as defined in 15-30-101 for the year in which general elections are held. The resulting figure must be rounded off to the nearest \$50 increment. The commissioner shall publish the revised limitations as a rule. In-kind contributions must be included in computing these limitation totals. The limitation provided in this section does not apply to contributions made by a political party eligible for a primary election under 13-10-601."

Renumber: subsequent sections

26. Page 45, line 16 through page 53, line 23.

Strike: sections 66 through 72 in their entirety

Renumber: subsequent sections

Insert: "Section 71. Section 15-6-138, MCA, is amended to read:

"15-6-138. (~~Temporary~~) Class eight property -- description -- taxable percentage. (1) Class eight property includes:

- (a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(bb);
- (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;
- (c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;
- (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors ~~as providers~~ as provided in 15-6-201, and supplies except those included in class five;
- (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;
- (f) special mobile equipment as defined in 61-1-104;
- (g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;
- (h) x-ray and medical and dental equipment;
- (i) citizens' band radios and mobile telephones;
- (j) radio and television broadcasting and transmitting equipment;
- (k) cable television systems;
- (l) coal and ore haulers;
- (m) theater projectors and sound equipment; and
- (n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service,

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wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 3% of its market value.

(5) (a) If, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income, in the last full year for which data is available, is at least 2.85% from the prior year, then the tax rate for class eight property will be reduced by 1% each year until the tax rate reaches zero:

———— (b) The department shall calculate the percentage growth in subsection (5)(a) by using the formula $(W/CPI)-1$, where:

———— (i) W is the Montana wage and salary income for the most current available year divided by the Montana wage and salary income for the year prior to the most current available year; and

———— (ii) CPI is the consumer price index for the most current available year used in subsection (5)(b)(i) divided by the consumer price index for the year prior to the most current available year as used in subsection (5)(b)(i):

———— (c) For purposes of determining the percentage growth in subsection (5)(a), the department shall use the wage and salary data series referred to as the bureau of economic analysis of the United States department of commerce Montana wage and salary disbursements. Inflation must be measured by the consumer price index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor:

———— (6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from taxation. (Repealed on occurrence of contingency--secs. 27(2), 31(4), Ch. 285, L. 1999.)"

Insert: "Section 72. Section 15-6-201, MCA, is amended to read:

"15-6-201. (Temporary) Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that is:

(i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and operated for private or corporate profit;

(e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;

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(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) truck canopy covers or toppers and campers;

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) ~~the following percentage 31%~~ of the market value of residential property as described in 15-6-134(1)(e) and

(1)(f):

——— (i) 23% for tax year 2000;

——— (ii) 27.5% for tax year 2001; and

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- ~~_____ (iii) 31% for tax year 2002 and succeeding tax years;~~
 (aa) ~~the following percentage~~ 13% of the market value of commercial property as described in 15-6-134(1)(g):
~~_____ (i) 9% for tax year 2000;~~
~~_____ (ii) 11% for tax year 2001; and~~
~~_____ (iii) 13% for tax year 2002 and succeeding tax years;~~
 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;
 (cc) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:
 (i) the acquired cost of the personal property is less than \$15,000;
 (ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and
 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
 (dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility; and
 (ee) light vehicles as defined in 61-1-139.
 (2) (a) For the purposes of subsection (1)(e):
 (i) the term "institutions of purely public charity" includes any organization that meets the following requirements:
 (A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.
 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.
 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.
 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:
 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
 (ii) held for future display; or
 (iii) used to house or store a public display.
 (3) For the purposes of subsection (1)(bb):
 (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.
 (b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

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(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

- (a) \$20,000 in the case of a single-family residential dwelling;
- (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

~~15-6-201. (Effective on occurrence of contingency) Exempt categories. (1) The following categories of property are exempt from taxation:~~

- ~~(a) except as provided in 15-24-1203, the property of:~~
 - ~~(i) the United States, except:~~
 - ~~(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or~~
 - ~~(B) as provided in 15-24-1103;~~
 - ~~(ii) the state, counties, cities, towns, and school districts;~~
 - ~~(iii) irrigation districts organized under the laws of Montana and not operating for profit;~~
 - ~~(iv) municipal corporations;~~
 - ~~(v) public libraries; and~~
 - ~~(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;~~
- ~~(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;~~
- ~~(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.~~
- ~~(d) property that is:~~
 - ~~(i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;~~
 - ~~(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and~~
 - ~~(iii) not maintained and operated for private or corporate profit;~~
- ~~(e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;~~
- ~~(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;~~
- ~~(g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;~~
- ~~(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;~~
- ~~(i) truck canopy covers or toppers and campers;~~
- ~~(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;~~
- ~~(k) motor homes;~~
- ~~(l) all watercraft;~~
- ~~(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;~~
- ~~(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;~~
- ~~(o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental~~

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impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

_____ (ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

_____ (p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

_____ (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

_____ (r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

_____ (A) construct, repair, and maintain improvements to real property; or

_____ (B) repair and maintain machinery, equipment, appliances, or other personal property;

_____ (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

_____ (s) harness, saddlery, and other tack equipment;

_____ (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

_____ (u) timber as defined in 15-44-102;

_____ (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

_____ (w) all vehicles registered under 61-3-456;

_____ (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

_____ (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

_____ (y) motorcycles and quadricycles;

_____ (z) the following percentage of the market value of residential property as described in 15-6-134(1)(c) and (1)(f):

_____ (i) 23% for tax year 2000;

_____ (ii) 27.5% for tax year 2001; and

_____ (iii) 31% for tax year 2002 and succeeding tax years;

_____ (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):

_____ (i) 9% for tax year 2000;

_____ (ii) 11% for tax year 2001; and

_____ (iii) 13% for tax year 2002 and succeeding tax years;

_____ (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

_____ (cc) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

_____ (i) the acquired cost of the personal property is less than \$15,000;

_____ (ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

_____ (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

_____ (dd) all agricultural implements and equipment;

_____ (ee) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;

_____ (ff) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;

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_____ (gg) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

_____ (hh) special mobile equipment as defined in 61-1-104;

_____ (ii) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

_____ (jj) x-ray and medical and dental equipment;

_____ (kk) citizens' band radios and mobile telephones;

_____ (ll) radio and television broadcasting and transmitting equipment;

_____ (mm) cable television systems;

_____ (nn) coal and ore haulers;

_____ (oo) theater projectors and sound equipment; and

_____ (pp) light vehicles as defined in 61-1-139.

_____ (2) (a) For the purposes of subsection (1)(c):

_____ (i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

_____ (A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

_____ (B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

_____ (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

_____ (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

_____ (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

_____ (ii) held for future display; or

_____ (iii) used to house or store a public display.

_____ (3) For the purposes of subsection (1)(bb):

_____ (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

_____ (b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

_____ (4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

_____ (a) \$20,000 in the case of a single-family residential dwelling;

_____ (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Insert: "Section 73. Section 15-16-101, MCA, is amended to read:

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"15-16-101. Treasurer to publish notice -- manner of publication. (1) Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% per month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% per month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

(i) the taxable value of the property;

(ii) the total mill levy applied to that taxable value;

(iii) the value of each mill in that county;

(iv) itemized city services and special improvement district assessments collected by the county;

(v) the number of the school district in which the property is located; ~~and~~

(vi) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax; and

(vii) the amount of the total tax due that is levied pursuant to 15-10-107, 20-9-331, 20-9-333, and 20-9-360. The amount reported under this subsection (2)(a)(vii) is the amount of the school equalization credit that may be claimed under [section 65 or 67] because of the enactment of the sales tax. The notice must have a conspicuous explanation to the taxpayer that the amount is refundable through an income or corporate tax filing. The notice or a copy of the notice is intended to be saved for use when filing an individual or corporate tax return.

(b) If the property is the subject of a tax sale for which a tax sale certificate has been issued under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the property is the subject of a tax sale and that the taxpayer may contact the county treasurer for complete information.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(a)(iv) ready for mailing.

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.""

Insert: "Section 74. Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by 15-30-103(2), in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by 15-30-122(2), in effect on June 30 of the taxable year.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U) using the ~~1967~~ 1982-84 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

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- (3) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:
- (a) that is treated as an association for federal income tax purposes;
 - (b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not in effect;
- and
- (c) that is not a disregarded entity.
 - (4) "Department" means the department of revenue.
 - (5) "Disregarded entity" means a business entity:
 - (a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as those regulations may be labeled or amended; or
 - (b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).
 - (6) "Dividend" means:
 - (a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and
 - (b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.
 - (7) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.
 - (8) "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its possessions.
 - (9) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code (26 U.S.C. 85) as amended.
 - (10) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the tax year by the consumer price index for June ~~1980~~ 2004.
 - (11) "Information agents" includes all individuals and entities acting in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.
 - (12) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.
 - (13) "Knowingly" is as defined in 45-2-101.
 - (14) "Limited liability company" means a limited liability company, domestic limited liability company, or a foreign limited liability company as defined in 35-8-102.
 - (15) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.
 - (16) "Lottery winnings" means income paid either in lump sum or in periodic payments to:
 - (a) a resident taxpayer on a lottery ticket; or
 - (b) a nonresident taxpayer on a lottery ticket purchased in Montana.
 - (17) (a) "Montana source income" means:
 - (i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;
 - (ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;
 - (iii) gain attributable to the sale or other transfer of intangible property received or accrued while a resident of the state;

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(iv) interest received or accrued while a resident of the state or from an installment sale of real property or tangible commercial or business personal property located in the state;

(v) dividends received or accrued while a resident of the state;

(vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

(vii) net income or loss derived from farming activities carried on in the state or while a resident of the state;

(viii) net rents from real property and tangible personal property located in the state or received or accrued while a resident of the state;

(ix) net royalties from real property and from tangible real property to the extent the property is used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all royalty periods in the tax year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time the person paying the royalty obtained possession.

(x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;

(xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;

(xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiv) social security benefits received or accrued while a resident of the state;

(xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state; and

(xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks.

(b) The term does not include:

(i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or

(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(18) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(19) "Nonresident" means a natural person who is not a resident.

(20) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting

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upon the basis of which the taxable income is computed under this chapter.

(21) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

(22) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

(23) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

(24) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

(25) "Purposely" is as defined in 45-2-101.

(26) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued, and the term "received or accrued" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(27) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

(28) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in effect.

(29) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(30) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

(31) ~~"Taxable year" or "tax year"~~ "Tax year" means the taxpayer's taxable year for federal income tax purposes.

(32) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation."

Insert: "Section 75. Section 15-30-103, MCA, is amended to read:

"15-30-103. Rate of tax. (1) There ~~shall~~ must be levied, collected, and paid for each ~~taxable tax~~ year commencing on or after December 31, 1968, upon the taxable income of ~~every each~~ taxpayer subject to this tax, after making allowance for exemptions and deductions as ~~hereinafter~~ provided in this chapter, a tax on the ~~following~~ brackets of taxable income as adjusted under subsection (2) at the following rates:

(a) on the first ~~\$1,000~~ \$2,300 of taxable income or any part ~~thereof~~ of that income, ~~2%~~ 1%;

(b) on the next ~~\$1,000~~ \$1,800 of taxable income or any part ~~thereof~~ of that income, ~~3%~~ 2%;

(c) on the next ~~\$2,000~~ \$2,100 of taxable income or any part ~~thereof~~ of that income, ~~4%~~ 3%;

(d) on the next ~~\$2,000~~ \$2,200 of taxable income or any part ~~thereof~~ of that income, ~~5%~~ 4%;

(e) on the next ~~\$2,000~~ \$2,400 of taxable income or any part ~~thereof~~ of that income, ~~6%~~ 5%;

(f) on the next ~~\$2,000~~ \$3,100 of taxable income or any part ~~thereof~~ of that income, ~~7%~~ 6%;

(g) ~~on the next \$4,000 of taxable income or any part thereof, 8%;~~

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- _____ (h) ~~on the next \$6,000 of taxable income or any part thereof, 9%;~~
_____ (i) ~~on the next \$15,000 of taxable income or any part thereof, 10%;~~
_____ (j)(g) ~~on any taxable income in excess of \$35,000~~ \$13,900 ~~or any part thereof of that income, 11%~~ 6.9%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that ~~taxable~~ tax year and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that ~~taxable~~ tax year and ~~shall must~~ be used as the basis for imposition of the tax in subsection (1) of this section."

Insert: "Section 76. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) Except as provided in subsection (6), in the case of an individual, the exemptions provided by subsections (2) through (5) ~~shall must~~ be allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~\$800~~ \$1,840 ~~shall be is~~ allowed for ~~taxable years beginning after December 31, 1978;~~ for the taxpayer all taxpayers.

(b) An additional exemption of ~~\$800~~ \$1,840 ~~shall be is~~ allowed for ~~taxable years beginning after December 31, 1978;~~ for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the ~~taxable~~ tax year of the taxpayer begins, ~~has no~~ does not have gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of ~~\$800~~ \$1,840 ~~shall be is~~ allowed for ~~taxable years beginning after December 31, 1978;~~ for the taxpayer if ~~he~~ the taxpayer has attained the age of 65 before the close of ~~his taxable~~ the taxpayer's tax year.

(b) An additional exemption of ~~\$800~~ \$1,840 ~~shall be is~~ allowed for ~~taxable years beginning after December 31, 1978;~~ for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of ~~such taxable~~ the tax year and, for the calendar year in which the ~~taxable~~ tax year of the taxpayer begins, ~~has no~~ does not have gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of ~~\$800~~ \$1,840 ~~shall be is~~ allowed for ~~taxable years beginning after December 31, 1978;~~ for the taxpayer if ~~he~~ the taxpayer is blind at the close of ~~his taxable~~ the taxpayer's tax year.

(b) An additional exemption of ~~\$800~~ \$1,840 ~~shall be is~~ allowed for ~~taxable years beginning after December 31, 1978;~~ for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the ~~taxable~~ tax year of the taxpayer begins, ~~has no~~ does not have gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind ~~shall must~~ be made as of the close of the ~~taxable~~ tax year of the taxpayer, except that if the spouse dies during ~~such taxable~~ the tax year, ~~such~~ the determination ~~shall must~~ be made as of the time of ~~such~~ death.

(c) For purposes of this subsection (4), an individual is blind only if ~~his~~ the person's central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if ~~his~~ the person's visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision ~~such to an extent~~ that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of ~~\$800~~ \$1,840 ~~shall be is~~ allowed for ~~taxable years beginning after December 31, 1978;~~ for each dependent:

(i) whose gross income for the calendar year in which the ~~taxable~~ tax year of the taxpayer begins is less than \$800; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the ~~taxable~~ tax year of the taxpayer begins; or

(B) is a student.

(b) ~~No An~~ exemption ~~shall be is~~ is not allowed under this subsection (5) for ~~any~~ a dependent who has made a joint return with ~~his the dependent's~~ spouse for the ~~taxable~~ tax year beginning in the calendar year in which the ~~taxable~~ tax year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5

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calendar months during the calendar year in which the ~~taxable~~ tax year of the taxpayer begins:

(i) is a full-time student at an educational institution; or
(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution ~~which~~ that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) The department, by November 1 of each year, shall multiply all the exemptions provided in this section by the inflation factor for that ~~taxable~~ tax year and round the product to the nearest \$10. The resulting adjusted exemptions are effective for that ~~taxable~~ tax year and ~~shall~~ must be used in calculating the tax imposed in 15-30-103."

Insert: "Section 77. Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. (1) In computing net income, there are allowed as deductions:

(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code of 1954 (26 U.S.C. 161 and 211), or as sections 161 and 211 are labeled or amended, subject to the following exceptions, which are not deductible:

- (i) items provided for in 15-30-123;
- (ii) state income tax paid;
- (iii) premium payments for medical care as provided in subsection (1)(g)(i);
- (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii);

(b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head of household, or married filing separately or not to exceed \$10,000 for taxpayers using the filing status married filing jointly;

(c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as follows:

- (i) expenses for household and dependent care services necessary for gainful employment incurred for:
 - (A) a dependent under 15 years of age for whom an exemption can be claimed;
 - (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and
 - (C) a spouse who is unable to provide self-care because of physical or mental illness;
- (ii) employment-related expenses incurred for the following services, but only if the expenses are incurred to enable the taxpayer to be gainfully employed:
 - (A) household services that are attributable to the care of the qualifying individual; and
 - (B) care of an individual who qualifies under subsection (1)(c)(i);
 - (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;

(iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:

(A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during the year only to the extent that the expenses do not exceed \$4,800;

(B) expenses for services in the household are deductible under subsection (1)(c)(i) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the expenses incurred during the year do not exceed:

- (I) \$2,400 in the case of one qualifying individual;
- (II) \$3,600 in the case of two qualifying individuals; and
- (III) \$4,800 in the case of three or more qualifying individuals;

(v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by one-half of the excess

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of the combined adjusted gross income over \$18,000;

(vi) for purposes of this subsection (1)(c):

(A) married couples shall file a joint return or file separately on the same form;

(B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred are deductible only if:

(I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or

(II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

(C) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;

(D) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;

(E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;

(d) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code (now repealed) that were in effect for the tax year ended December 31, 1978;

(e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

(f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to the conditions set forth in 15-30-156;

(g) the entire amount of premium payments made by the taxpayer, except premiums deducted in determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:

(i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer; and

(ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:

(A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

(B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer for tax years beginning after December 31, 1996;

(h) light vehicle registration fees, as provided for in 61-3-560 through 61-3-562, paid during the tax year; and

(i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201.

(2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct employment-related expenses considered to have been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

(c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the deduction under this subsection (2)."

Insert: "Section 78. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) A standard deduction equal to 20% of adjusted gross income is allowed if elected by the taxpayer on a return. The standard deduction is in lieu of all deductions allowed under 15-30-121. The minimum standard deduction is ~~\$665~~ \$1,530, as adjusted under the provisions of subsection (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of ~~\$1,500~~ \$3,460, as adjusted under the provisions of subsection (2). However, in the case of a single joint return of husband and wife or in the case of a single individual who

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qualifies to file as a head of household on the federal income tax return, the minimum standard deduction is ~~\$1,330~~ twice the amount of the minimum standard deduction for a single return, as adjusted under the provisions of subsection (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of ~~\$3,000~~ twice the amount of the maximum standard deduction for a single return, as adjusted under the provisions of subsection (2). The standard deduction may not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married must be made as of the last day of the tax year unless one of the spouses dies during the tax year, in which case the determination must be made as of the date of death.

(2) By November 1 of each year, the department shall multiply both the minimum and the maximum standard deduction for single returns by the inflation factor for that tax year and round the product to the nearest \$10. ~~The minimum and maximum standard deduction for joint returns and qualified head of household returns must be twice the amount of the minimum and maximum standard deduction for single returns.~~ The resulting adjusted deductions are effective for that tax year and must be used in calculating the tax imposed in 15-30-103.""

Insert: "Section 79. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) For both resident and nonresident taxpayers, each single individual and each married individual not filing a joint return with a spouse and having a gross income for the tax year of more than ~~\$1,500~~ \$3,460, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the tax year of more than ~~\$3,000~~ \$6,920, as adjusted under the provisions of subsection (7), are liable for a return to be filed on forms and according to rules that the department may prescribe. The gross income amounts referred to in the preceding sentence must be increased by ~~\$800~~ \$1,840, as adjusted under the provisions of 15-30-112(6), for each additional personal exemption allowance that the taxpayer is entitled to claim for the taxpayer and the taxpayer's spouse under 15-30-112(3) and (4).

(2) In accordance with instructions set forth by the department, each taxpayer who is married and living with husband or wife and is required to file a return may, at the taxpayer's option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax must be computed on the aggregate taxable income and the liability with respect to the tax is joint and several. If a joint return has been filed for a tax year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department consents.

(3) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld, as provided by 15-30-202, and any payment made by reason of an estimated tax return provided for in 15-30-241. However, the tax computed must be greater by \$1 than the amount withheld and paid by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax exceed by more than \$1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount paid, the excess must be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added as provided in 15-1-216. In that case, there may not be a penalty because of the understatement if the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for the tax year. These adjusted amounts are effective for that tax year, and persons who have gross incomes less than these adjusted amounts are not required to file a return.

(8) Individual income tax forms distributed by the department for each tax year must contain instructions and tables based on the adjusted base year structure for that tax year.""

Renumber: subsequent sections

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27. Page 63, line 25 through page 65, line 4.

Strike: section 74 in its entirety

Renumber: subsequent sections

28. Page 70, line 7 through page 72, line 2.

Strike: section 78 in its entirety

Renumber: subsequent sections

29. Page 72, line 14.

Following: "and"

Insert: "basic county tax for elementary equalization and"

30. Page 72, line 16.

Following: "and"

Insert: "basic county tax or high school equalization and"

31. Page 75, line 9 through page 76, line 30.

Strike: section 82 in its entirety

Renumber: subsequent sections

32. Page 81, line 6.

Following: "and"

Insert: "; and"

(f) a BASE budget levy on the taxable value of all property within the district"

33. Page 81, line 11 through page 83, line 15.

Strike: section 86 through section 87 in their entirety

Renumber: subsequent sections

34. Page 85, line 18 through page 86, line 8.

Strike: section 90 in its entirety

Renumber: subsequent sections

35. Page 98, line 15.

Following: "verification"

Insert: "from a motor vehicle dealer"

36. Page 98, line 16.

Following: "paid"

Insert: "or payment has been made to the county treasurer of the sales or use tax on the vehicle based upon the valuation determined under 61-3-503 for light vehicles or by a nationally recognized valuation guide specified by the department"

37. Page 100, line 26 through page 102, line 26.

Strike: section 103 through section 106 in their entirety

Insert: "**Section 104.** Section 25, Chapter 13, Special Laws of August 2002, is amended to read:

"**Section 25.** Section 244, Chapter 574, Laws of 2001, is amended to read:

"**Section 244. School district block grants.** (1) (a) ~~The Except for the district general fund, the~~ office of public instruction shall provide a block grant to each school district based on the revenue received by each district in fiscal year

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2001 from vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999.

(b) Block grants must be calculated using the electronic reporting system that is used by the office of public instruction and school districts. The electronic reporting system must be used to allocate a portion of the block grant amount into each district's fiscal year 2002 budget as an anticipated revenue source by fund, except the district general fund.

(c) With the exception of vehicle taxes and fees, the office of public instruction shall use the amount actually received from the sources listed in subsection (1)(a) in fiscal year 2001 in its calculation of the block grant for fiscal year 2002 budgeting purposes. For vehicle taxes and fees, the office of public instruction shall use 93.4% of the amount actually received in fiscal year 2001 in calculating the block grant for fiscal year 2002.

(2) If the ~~biennial~~ fiscal year 2003 appropriation provided in [section 248(1)] is insufficient to fund the school district block grants in fiscal year 2003 at the fiscal year 2002 level, the office of public instruction shall prorate the block grants to meet the remaining appropriation. School districts shall anticipate the prorated block grant amounts provided by the office of public instruction in their budgets for fiscal year 2003.

(3) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed. ~~If the appropriation for block grants is greater than or less than the amount received by schools from the sources enumerated in subsection (1), the office of public instruction shall prorate the amount appropriated based upon the fiscal year 2001 revenue.~~

(4) The average ~~amount~~ of the block grants in fiscal years 2002 and 2003 must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.""

Insert: "Section 105. Section 27, Chapter 285, Laws of 1999, is amended to read:

"Section 27. **Repealer.** (†) Sections 15-6-136, 15-24-901, 15-24-920, 15-24-926, 15-24-927, and 15-24-931, MCA, are repealed.

~~(2) Section 15-6-138, MCA, is repealed."~~

Insert: "Section 106. Section 31, Chapter 285, Laws of 1999, is amended to read:

"Section 31. **Effective dates.** (1) [Sections 1, 11, 12, 15, 22, 26, 28 through 30, and 32 and this section] are effective on passage and approval.

(2) [Sections 3 through 9 and 23] are effective July 1, 2000.

(3) [Sections 2, 10, 13, 14, 16 through 21, 24, 25, and 27(†)] are effective January 1, 2003.

~~(4) [Sections 13(1)(aa) through (1)(ll) and 27(2)] are effective if the tax rate in [section 12], amending 15-6-138, reaches zero."~~

Insert: "NEW SECTION. Section 107. **Contingent voidness -- election required by 2007.** [This act] is void on January 1, 2007, unless, by January 1, 2007, this section is repealed by a ballot issue at a statewide general election."

Renumber: subsequent sections

38. Page 102, line 30.

Strike: "[Section 61] is"

Insert: "[Sections 61 and 62] are"

39. Page 103, line 1.

Strike: "[section 61]"

Insert: "[sections 61 and 62]"

40. Page 103, line 2.

Strike: "[Section 62] is"

Insert: "[Sections 63 through 66] are"

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41. Page 103, line 3.

Strike: "[section 62]"

Insert: "[sections 63 through 66]"

42. Page 103, line 4.

Insert: "(4) [Sections 67 and 68] are intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [sections 67 and 68]."

43. Page 103, line 9.

Strike: "passage and approval"

Insert: "July 1, 2004"

44. Page 103, line 13 through line 14.

Strike: "(a)" on line 13 through "2003" on line 14

Insert: "[Sections 63, 64, 69, and 74 through 79] apply to tax years beginning after December 31, 2004.

(3) [Sections 65 through 68] apply to property taxes imposed after October 1, 2003"

45. Page 103, line 15 through line 16.

Strike: subsection (b) in its entirety

And, as amended, do pass. Report adopted.

SB 478, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "LEVY"

Insert: "OR DOLLAR AMOUNT"

2. Page 1, line 25.

Strike: "The"

Insert: "If tax-billing software is capable, the"

3. Page 1, line 26.

Following: "levy"

Insert: "or dollar amount"

4. Page 1, line 26.

Following: "15-16-101(2)."

Insert: "The amount must also be reported to the department of administration pursuant to 7-6-4003."

5. Page 1, line 29.

Following: "under"

Insert: "7-1-2121 or"

Strike: "complying with the provisions of 7-1-4131"

And, as amended, do pass. Report adopted.

SB 480, do pass. Report adopted.

HB 517, be amended as follows:

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1. Title, line 4.

Strike: "AUTHORIZING"

Insert: "CLARIFYING THAT A CITY OR COUNTY MAY IMPOSE"

Strike: "THAT HAVE"

Insert: "EVEN IF THE AIRPORT OR AIRPORT AUTHORITY HAS"

2. Title, lines 5 through 7.

Following: "YEARS;" on line 5

Strike: remainder of line 5 through "AMOUNT;" on line 7

3. Page 3, lines 6 and 7.

Strike: "UP TO 2" on line 6

Following: "under" on line 6

Strike: remainder of line 6 through "OF" on line 7

Insert: "as authorized in"

4. Page 3, line 9 through line 11.

Following: "time." on line 9

Strike: remainder of line 9 through "year." on line 11

And, as amended, be concurred in. Report adopted.

HB 642, be amended as follows:

3/24/2003

1. Page 1, line 14.

Following: "adjustment"

Insert: "and tracking"

2. Page 1, line 17.

Following: "adjustment"

Insert: "and tracking"

3. Page 1, line 19.

Following: "PROTEST."

Insert: "The rate schedules must include permanent provisions for annual rate adjustments, including both tax increases and decreases."

4. Page 1, line 20.

Following: the first "on"

Insert: "January 1 following"

5. Page 1, line 24.

Following: "may"

Insert: ", "

Following: "schedule,"

Insert: "ask for comment and"

And, as amended, be concurred in. Report adopted.

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ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 12:30 p.m., Wednesday, March 26, 2003. Motion carried.

Senate adjourned at 3:06 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
March 26, 2003

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-third legislative day.

SPECIAL ORDERS OF THE DAY

Senator Stapleton paid tribute to Senator Gebhardt's son, who graduated from West Point in 2000, and is on his way to the conflict in Kuwait.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 484**.

Correctly engrossed: **SB 462, SB 478, HB 155, HB 201, HB 218, HB 224, HB 253, HB 308, HB 453, HB 499, HB 517, HB 521, HB 532, HB 642, HB 647, HB 681**.

Correctly enrolled: **SB 100, SB 104, SB 114, SB 398**.

Examined by the sponsor and found to be correct: **SB 26, SB 36, SB 56, SB 70, SB 75, SB 102, SB 108, SB 117, SB 122, SB 128**.

Signed by the President at 8:50 a.m., March 25, 2003: **SB 26, SB 36, SB 56, SB 70, SB 75, SB 102, SB 108, SB 117, SB 122, SB 128**.

Signed by the Secretary of the Senate at 10:15 a.m., March 25, 2003: **SB 26, SB 36, SB 56, SB 70, SB 75, SB 102, SB 108, SB 117, SB 122, SB 128**.

Signed by the Speaker at 11:10 a.m., March 25, 2003: **SB 26, SB 36, SB 56, SB 70, SB 75, SB 102, SB 108, SB 117, SB 122, SB 128**.

Delivered to the Governor for approval at 7:45 a.m., March 26, 2003: **SB 26, SB 36, SB 56, SB 70, SB 75, SB 102, SB 108, SB 117, SB 122, SB 128**.

BUSINESS AND LABOR (Mahlum, Chairman):

3/25/2003

HB 482, be concurred in. Report adopted.

HB 555, be concurred in. Report adopted.

HB 588, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

3/26/2003

HB 417, be concurred in. Report adopted.

HB 479, be concurred in. Report adopted.

HB 580, be concurred in. Report adopted.

HB 637, be concurred in. Report adopted.

HJR 26, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

3/25/2003

SB 451, introduced bill, be amended as follows:

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1. Page 2, line 25.

Following: "and"

Insert: "and"

2. Page 2, line 26 through line 28.

Following: "use" on line 26

Strike: remainder of line 26 through "illness" on line 28

3. Page 2, line 30.

Strike: "and mental health programs"

And, as amended, do pass. Report adopted.

SB 454, introduced bill, be amended as follows:

1. Title, line 9.

Strike: "IMMEDIATE"

2. Page 7, line 5.

Following: "is effective"

Strike: "on passage and approval"

Insert: "July 1, 2003"

And, as amended, do pass. Report adopted.

HB 160, be concurred in. Report adopted.

FISH AND GAME (Sprague, Chairman):

3/26/2003

HB 20, be amended as follows:

1. Page 1, line 16 through line 17.

Strike: "involved" on line 16 through the first "in" on line 17

Insert: "that focuses on"

2. Page 1, line 27.

Strike: "involved in"

Insert: "that focuses on"

And, as amended, be concurred in. Report adopted.

HB 283, be amended as follows:

1. Title, line 4 through line 10.

Strike: "PROVIDING " on line 4 through "PLAN;" on line 10

2. Title, line 14 through line 16.

Strike: "REPEALING" on line 14 through "MCA;" on line 16

Following: "PROVIDING" on line 16

Insert: "AN IMMEDIATE"

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3. Title, line 17.

Strike: "DATES"

Insert: "DATE"

4. Page 1, line 21 through line 25.

Strike: section 1 in its entirety

Renumber: subsequent sections

5. Page 2, line 6 through line 9.

Strike: section 3 through section 4 in their entirety

Renumber: subsequent section

6. Page 2, line 11.

Strike: "dates"

Insert: "date"

Strike: "(1)" through "are"

Insert: "[This act] is"

7. Page 2, line 13 through line 23.

Strike: subsection (2) in its entirety

And, as amended, be concurred in. Report adopted.

HB 306, be concurred in. Report adopted.

HB 396, be amended as follows:

1. Title, line 6.

Following: "LICENSE;"

Insert: "CLARIFYING THAT THE PERSON ISSUING THE LICENSE IS REQUIRED TO DETERMINE PROOF OF
COMPLETION OF THE COURSE;"

2. Page 1, line 13.

Strike: "resident"

3. Page 1, line 15.

Strike: "receives" through "certificate"

Insert: "determines proof"

Strike: "from the"

Insert: "of:

(a) a"

4. Page 1, line 16 through line 20.

Strike: "(5)" on line 16 through "completed" on line 20

Insert: "(4) or (6); or

(b) "

Following: "any" on line 20

Insert: "other"

Renumber: subsequent subsections

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5. Page 1, line 25.

Strike: "receives"

Insert: "determines"

6. Page 1, line 26.

Strike: "certificate" through "completed a"

7. Page 1, line 29.

Strike: the second "receives"

Insert: "determines"

8. Page 2, line 18.

Following: "HUNTER"

Insert: "safety and"

9. Page 2, line 20.

Strike: "or achievement"

Insert: "of a required course"

And, as amended, be concurred in. Report adopted.

HJR 32, be amended as follows:

1. Title, line 10 through line 11.

Strike: "REMOVAL" on line 10

Insert: "DELISTING"

Strike: "FROM" on line 10 through "LIST" on line 11

2. Page 1, line 17 through line 18.

Strike: "declared"

Insert: "protected"

Strike: "to" on line 17 through "species" on line 18

Insert: "under the federal Endangered Species Act"

3. Page 1, line 19.

Strike: "endangered" through "designation"

Insert: "Endangered Species Act"

4. Page 2, line 9.

Strike: "and"

5. Page 2, line 17.

Strike: "removal"

Insert: "delisting"

Strike: "from" through "list"

And, as amended, be concurred in. Report adopted.

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HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):
HB 67, be amended as follows:

3/26/2003

1. Title, page 1, line 11.

Strike: "OTHER"

Insert: "ILLEGAL"

Following: "SHOULDER"

Insert: "EXCEPT IN AN AUTHORIZED CROSSWALK"

2. Page 5, line 16.

Following: "pedestrian"

Insert: ", other than an intoxicated pedestrian referred to in 61-8-508, who is"

3. Page 5, lines 19 through 22.

Strike: subsection (3) in its entirety

4. Page 6, line 4.

Following: "No"

Strike: "A"

Insert: "Except in an authorized crosswalk, a"

5. Page 6, line 5.

Strike: "not"

Following: "stand"

Insert: "in the public right-of-way, as defined in 60-1-103, but not"

6. Page 6, line 6.

Strike: "61-8-506(3)"

Insert: "61-8-506(2)"

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):
HB 269, be amended as follows:

3/26/2003

1. Title, line 5.

Following: "PROGRAM;"

Insert: "REVISING THE DEPARTMENT OF JUSTICE'S AND THE DEPARTMENT OF ADMINISTRATION'S RESPONSIBILITIES REGARDING FIRE PROTECTION AND FIRE PREVENTION;"

2. Title, line 6.

Following: "KEEPING"

Insert: "FIRE INCIDENT"

3. Title, lines 7 and 8.

Strike: "CERTAIN" on line 7 through "REGULATION" on line 8

Insert: "THE REQUIREMENT THAT FIRE PREVENTION AND INVESTIGATION RULES ADOPTED BY THE DEPARTMENT OF JUSTICE INCLUDE CERTAIN BUILDING EQUIPMENT AND SYSTEMS"

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4. Title, line 9.

Following: "OCCUPANCY"

Insert: "OF BUILDINGS OR STRUCTURES"

Following: "PURPOSES;"

Insert: "CHANGING THE FREQUENCY FOR FIRE INSPECTIONS IN SCHOOLS FROM 12 MONTHS TO 18 MONTHS;"

5. Title, line 10.

Following: "FOR"

Insert: "FIRE INCIDENT"

6. Page 9, line 6.

Strike: "12"

Insert: "18"

7. Page 9.

Following: line 26

Insert: "NEW SECTION. Section 10. Coordination instruction. If House Bill No. 196 and [this act] are both passed and approved, then [section 22] of House Bill No. 196, amending 50-61-103, is void."

And, as amended, be concurred in. Report adopted.

HB 512, be amended as follows:

1. Title, line 4 through line 7.

Strike: "AUTHORIZING" on line 4 through "THE" on line 7

Insert: "PROVIDING FOR THE ADDITION OF TERRITORY ADJACENT TO AN EXISTING"

2. Page 1, line 11 through line 15.

Strike: section 1 in its entirety

Insert: "NEW SECTION. Section 1. Addition of territory adjacent to existing planning and zoning district."

Territory that is directly adjacent to an existing planning and zoning district but that is not part of the district may be added to the district subject to the procedures provided in Title 76, chapter 2, part 1."

And, as amended, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

3/26/2003

SB 465, introduced bill, be amended as follows:

1. Title, line 7.

Strike: "ADMINISTRATOR"

Insert: "CORPORATION"

2. Page 2, line 13.

Following: "Montana-based"

Strike: "capital"

Following: "venture"

Insert: "capital"

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3. Page 2, line 16.

Following: "venture"

Insert: "capital"

4. Page 2, line 23.

Strike: "administrator"

Insert: "corporation"

5. Page 2, line 26.

Strike: "administrator""

Insert: "corporation""

6. Page 2, line 29.

Strike: "administrator"

Insert: "corporation"

7. Page 3, line 19.

Insert: "(4) Board members shall serve staggered 4-year terms. A term begins on the first day of the calendar year and ends on the last day of the calendar year or when a successor is appointed. A member who has served two successive complete terms is not eligible for reappointment until 1 year after the end of the second term.

(5) The appointing authority may, after hearing, remove a member for neglect of duty or other just cause."

Renumber: subsequent subsections

8. Page 3, line 24.

Following: line 23

Insert: "(9) Each calendar year, the legislative auditor shall conduct an audit of the activities of the board. The board shall reimburse the auditor for costs associated with the annual audit. The audit must be delivered to the board, the governor, and the state auditor."

9. Page 3, line 26.

Strike: "invest funds,"

10. Page 5, line 3.

Strike: "administrator"

Insert: "corporation"

11. Page 5, line 6.

Strike: "administrator"

Insert: "corporation"

12. Page 5, line 23.

Following: "investment."

Insert: "The scheduled aggregate return to the investor may not exceed an amount equal to the rate of return for the 10-year U.S. treasury bills plus 400 basis points. The rate is subject to approval of the board of investments, which shall review the rate for financial prudence."

13. Page 6, line 25.

Strike: "An individual"

Insert: "A designated investor"

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14. Page 7, line 10.

Strike: "on"

Insert: "by"

15. Page 7, line 26.

Strike: "administrator"

Insert: "corporation"

16. Page 7, line 28.

Strike: "administrator"

Insert: "corporation"

17. Page 7, line 29.

Strike: "administrator"

Insert: "corporation"

18. Page 8, line 2.

Strike: "administrator"

Insert: "corporation"

19. Page 8, line 4.

Strike: "administrator"

Insert: "corporation"

20. Page 8, line 12.

Strike: "administrator"

Insert: "corporation"

21. Page 8, line 14.

Strike: "administrator"

Insert: "corporation"

22. Page 8, line 16.

Strike: "administrator"

Insert: "corporation"

23. Page 8, line 17.

Strike: "administrator's"

Insert: "corporation's"

24. Page 8, line 18.

Strike: "administrator"

Insert: "corporation"

25. Page 8, line 20.

Strike: "administrator"

Insert: "corporation"

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26. Page 8, lines 22 through 26.

Strike: "administrator" on line 22

Insert: "corporation"

Following: "administrator." on line 22

Strike: subsections (1) and (2) in their entirety

Insert: "(1) The board shall select and designate the Montana capital investment corporation."

Renumber: subsequent subsections

27. Page 8, line 27.

Strike: "administrator"

Insert: "corporation"

28. Page 8, line 30.

Strike: "committee"

Insert: "Montana capital investment board"

29. Page 9, line 3.

Strike: "administrator"

Insert: "corporation"

30. Page 9, line 5.

Strike: "members of the selection committee"

Insert: "board"

31. Page 9, line 7.

Strike: "administrator"

Insert: "corporation"

32. Page 9, lines 10 and 11.

Strike: subsection (6) in its entirety

Renumber: subsequent subsections

33. Page 9, line 12.

Strike: "selection committee"

Insert: "board"

34. Page 9, line 13.

Strike: "selection committee"

Insert: "board"

35. Page 9, line 14.

Strike: "administrator"

Insert: "corporation"

36. Page 9, line 18.

Strike: "administrator"

Insert: "corporation"

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37. Page 9, line 27.

Strike: "administrator"

Insert: "corporation"

38. Page 9, line 30.

Strike: "administrator"

Insert: "corporation"

39. Page 10, line 4.

Strike: "administrator"

Insert: "corporation"

40. Page 10, line 10.

Strike: "administrator"

Insert: "corporation"

41. Page 10, line 17.

Strike: "administrator"

Insert: "corporation"

42. Page 10, line 18.

Strike: "administrator"

Insert: "corporation"

43. Page 10, line 19.

Strike: "administrator"

Insert: "corporation"

44. Page 10, line 21.

Strike: "administrator"

Insert: "corporation"

45. Page 10, line 25.

Strike: "administrator"

Insert: "corporation"

46. Page 10, lines 28 and 29.

Strike: "administrator" on line 28

Insert: "corporation"

Strike: "consider investment" on line 28

Insert: "invest at least 50% of the assets of the revolving fund"

Following: "businesses" on line 28

Strike: remainder of line 28 through "that" on line 29

Insert: "if"

47. Page 10, line 30.

Strike: "administrator"

Insert: "corporation"

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48. Page 11, line 3.

Following: line 2

Insert: "(5) Every 3 years, the board shall conduct a review of the operations of the Montana capital investment corporation for the purpose of ensuring that the Montana capital investment corporation is properly overseeing the management of the Montana fund of funds. If after conducting a review, the board determines that the Montana capital investment corporation is deficient in overseeing the management of the Montana fund of funds, the board shall inform the Montana capital investment corporation of all deficiencies. The board shall conduct another review within 1 year to determine if the deficiencies have been corrected.

(6) If the initial review reveals deficiencies considered by the board to be serious in nature or if the subsequent review indicates the Montana capital investment corporation has failed to correct the identified deficiencies, the board may remove the Montana capital investment corporation.

(7) If the Montana capital investment corporation is removed, the board shall conduct a search to name a new entity to be the Montana capital investment corporation."

49. Page 11, line 5.

Strike: "administrator"

Insert: "corporation"

50. Page 11, lines 8 through 10.

Following: "Physical presence" on line 8

Strike: remainder of line 8 through "be" on line 9

Insert: "is"

Following: "in the state" on line 9

Strike: remainder of line 9 through "year," on line 10

Insert: "and agreeing"

Following: "Montana."

Insert: "If a venture capital fund ceases to have a presence in Montana, the venture capital fund shall permit the Montana fund of funds to remove its investment in the venture capital fund and the venture capital fund shall return to the Montana fund of funds its original investment at its present value."

51. Page 11, line 15.

Following: "funds."

Insert: "Any venture capital fund in which the Montana fund of fund invests shall on an annual basis provide written documentation of the performance of the fund to the venture capital investment fund allocation manager."

52. Page 11, line 19.

Strike: "administrator"

Insert: "corporation"

53. Page 11, line 24.

Strike: "administrator"

Insert: "corporation"

54. Page 11, line 29.

Strike: "administrator"

Insert: "corporation"

55. Page 11, line 30.

Strike: "administrator"

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Insert: "corporation"

56. Page 12, line 3.

Strike: "administrator"

Insert: "corporation"

57. Page 12, line 5.

Strike: "administrator"

Insert: "corporation"

58. Page 12, line 9.

Strike: "the legislative auditor shall conduct an audit of the activities of"

Strike: "administrator or"

Insert: "corporation"

59. Page 12, line 10.

Following: "conduct"

Strike: "the"

Insert: "an"

Following: "audit"

Insert: "of the activities of the Montana capital investment corporation"

60. Page 12, line 11.

Strike: "administrator"

Insert: "corporation"

61. Page 12, line 12.

Strike: "administrator"

Insert: "corporation"

62. Page 12, line 13.

Strike: "administrator and"

Insert: "corporation,"

Following: "board"

Insert: ", the governor, and the state auditor"

63. Page 12, line 18.

Strike: "administrator"

Insert: "corporation"

64. Page 12, line 20.

Strike: "administrator"

Insert: "corporation"

65. Page 12, line 21.

Strike: "administrator"

Insert: "corporation"

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66. Page 12, line 24.

Strike: "administrator"

Insert: "corporation"

67. Page 13, line 4.

Strike: "administrator"

Insert: "corporation"

68. Page 13, line 8.

Strike: "administrator"

Insert: "corporation"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

March 25, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 5** sponsored by Senator Tash, **Senate Bill 10** sponsored by Senator Grimes, **Senate Bill 31** sponsored by Senator Cobb, **Senate Bill 49** sponsored by Senator Shea, **Senate Bill 88** sponsored by Senator Bales, and **Senate Bill 94** sponsored by Senator Stonington on March 25, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate:

3/25/2003

SB 206, introduced by Anderson

House bills passed and transmitted to the Senate for concurrence:

3/25/2003

HB 558, introduced by D. Brown

HB 628, introduced by Kasten

HB 735, introduced by Fisher

MOTIONS

SB 470 - Senator DePratu moved **SB 470** be taken from second reading and rereferred to the committee on Taxation.

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Motion carried.

HB 363 - Senator Mahlum moved **HB 363** be taken from the committee on Business and Labor and rereferred to the committee on Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 485, introduced by Cobb, E. Clark (by request of the House Joint Appropriations Subcommittee on Health and Human Services), referred to Finance and Claims.

SB 486, introduced by Elliott, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 558, introduced by D. Brown, Keane, referred to Fish and Game.

HB 628, introduced by Kasten (by request of the House Joint Appropriations Subcommittee on Long Range Planning), referred to Finance and Claims.

HB 735, introduced by Fisher (by request of the House Joint Appropriations Subcommittee on Corrections and Public Safety), referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tash in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 332 - Senator Toole moved **SB 332**, second reading copy, be amended as follows:

1. Title, page 1, line 5.

Strike: "\$10"

Insert: "\$20"

2. Page 2, line 2.

Following: "implements,"

Insert: "coal, gas, oil, electricity,"

3. Page 2, line 10.

Strike: "\$10"

Insert: "\$20"

4. Page 2, line 11.

Strike: "\$10"

Insert: "\$20"

Strike: "\$20"

Insert: "\$30"

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5. Page 2, line 12.

Strike: "\$20"

Insert: "\$30"

Strike: "\$30"

Insert: "\$40"

6. Page 2, line 13.

Strike: "\$30"

Insert: "\$40"

7. Page 3, lines 20 through 27.

Strike: "as follows" on line 20 through "50%" on line 21

Strike: "; and" through "seq" on line 27

Amendment **adopted** unanimously.

SB 332 - Senator Kitzenberg moved **SB 332**, second reading copy, be further amended as follows:

1. Page 3, lines 20 through 27.

Following: "15-1-501," on line 20

Strike: remainder of line 20 through "(a)" on line 23

Insert: "to"

Following: "system" on line 23

Strike: remainder of line 23 through "seq" on line 27

Amendment **not adopted** as follows:

Yeas: Butcher, Cobb, Cocchiarella, Elliott, Gebhardt, Kitzenberg, Mahlum, Mangan, Ryan, Schmidt, Shea, Taylor, Tropila.

Total 13

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 37

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 332 - Senator Toole moved **SB 332**, as amended, do pass. Motion **failed** as follows:

Yeas: Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Kitzenberg, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Thomas, Toole, Tropila.

Total 24

Nays: Anderson, Bales, Barkus, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan,

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McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Wheat, Zook, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 433 - Senator D. Ryan moved **SB 433**, second reading copy, be amended as follows:

1. Title, page 8.

Following: "MONTANANS"

Strike: ", "

Insert: "AND"

Strike: ", AND STUDENT ASSESSMENT REQUIREMENTS"

2. Page 1, line 16.

Strike: "imports"

Insert: "transports"

3. Page 1, line 22.

Strike: "each 12 fluid ounces"

Insert: "the amount of concentrate"

Strike: "supply"

Insert: "produce 12 fluid ounces of"

4. Page 3, line 3 through line 4.

Strike: "office" on line 3 through "276]" on line 4

Insert: "department of revenue for the administration of [sections 1 through 6] during the biennium ending June 30, 2005"

5. Page 3, line 11 through line 12.

Strike: section 7 in its entirety

Renumber: subsequent sections

Amendment **adopted** unanimously.

SB 433 - Senator D. Ryan moved **SB 433**, as amended, do pass. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Thomas, Toole, Tropila, Wheat.

Total 25

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Zook, Mr. President.

Total 25

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 433 - Senator Thomas moved **SB 433** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Elliott, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gebhardt, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 332 - Senator Thomas moved **SB 332** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tash moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 89 passed as follows:

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Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Barkus.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 385 passed as follows:

Yeas: Barkus, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Tropila, Wheat, Zook.
Total 29

Nays: Anderson, Bales, Black, Bohlinger, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, O'Neil, Perry, Stapleton, Story, Thomas, Toole, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 222, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 272 concurred in as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Barkus, Esp, McGee, O'Neil.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 414 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Bales, Esp, Mangan, McGee, Nelson, Ryan, Schmidt.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 548 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Cromley, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 557 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Curtiss.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 639 concurred in as follows:

Yeas: Anderson, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 42

Nays: Bales, Black, Esp, Gebhardt, Grimes, McGee, O'Neil, Perry.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 700 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Mr. President.

Total 27

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, Nelson, Pease, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat, Zook.

Total 23

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

HJR 17, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cromley, Esp, McGee, Stapleton.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 30 concurred in as follows:

Yeas: Anderson, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Bales, Barkus, Butcher, Curtiss, Esp, Gebhardt, McGee.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 56**
Report No. 1, March 26, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 56** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 56** (reference copy -- salmon) be amended as follows:

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1. Title, line 10 through line 11.

Following: "CONDITIONS:"

Strike: remainder of line 10 through "CENTER:" on line 11

2. Page 4, line 9.

Strike: "EXCEPT AS PROVIDED IN SUBSECTION (4)"

3. Page 4, line 22.

Strike: "EXCEPT AS PROVIDED IN SUBSECTION (4)"

4. Page 4, line 25 through line 28.

Strike: line 25 through line 28 in their entirety

For the House:

B. Thomas, Chairman
Becker
Noennig

For the Senate:

Esp, Chairman
Cromley
Stonington

MESSAGES FROM THE GOVERNOR

March 26, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 78** sponsored by Senator McCarthy on March 26, 2003.

Sincerely,

JUDY MARTZ
Governor

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 12:30 p.m., Thursday, March 27, 2003. Motion carried.

Senate adjourned at 3:31 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
March 27, 2003

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Gebhardt, Schmidt and Stonington, excused. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-fourth legislative day.

Senator Schmidt present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 485, SB 486.**

Correctly engrossed: **SB 451, SB 454, SB 465, SB 470, HB 20, HB 67, HB 269, HB 283, HB 396, HB 512, HJR 32.**

Examined by the sponsor and found to be correct: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

Signed by the President at 3:00 p.m., March 25, 2003: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

Signed by the Secretary of the Senate at 9:30 a.m., March 26, 2003: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

Signed by the Speaker at 9:55 a.m., March 26, 2003: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

Delivered to the Governor for approval at 9:20 a.m., March 27, 2003: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):

3/26/2003

HB 445, be concurred in. Report adopted.

HB 676, be amended as follows:

1. Title, line 5.

Following: "1975;"

Insert: "AMENDING SECTION 75-7-103, MCA;"

2. Page 1, line 28.

Following: "75-7-102"

Insert: "; or

(iii) livestock grazing activities"

And, as amended, be concurred in. Report adopted.

HB 678, be concurred in. Report adopted.

BUSINESS AND LABOR (Mahlum, Chairman):

3/26/2003

HB 130, be amended as follows:

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1. Title, page 1, line 6.

Strike: "DEFINITIONS" through "AND"

Insert: "DEFINITION OF"

Following: ";

Insert: "DEFINING "CLAIM DOCUMENTATION";"

2. Title, page 1, line 7.

Following: "INSURER;"

Insert: "REQUIRING PROMPT PAYMENT OF MOTOR VEHICLE DAMAGE CLAIMS;"

3. Title, page 1, line 8.

Following: "CLAIMS;"

Insert: "PROVIDING THAT COMPLIANCE OR NONCOMPLIANCE WITH PROMPT PAYMENT REQUIREMENTS MAY NOT BE USED AS A BASIS FOR PRIVATE CAUSE OF ACTION OR ADMISSIBLE AS EVIDENCE IN A PRIVATE ACTION;"

4. Page 1, line 14.

Strike: "CLAIMS"

Insert: "medical benefits"

5. Page 1.

Following: line 15

Insert: "(1) "Claim documentation" means standard claims forms or other documentation routinely accepted by insurers as proof of loss."

Renumber: subsequent subsections

6. Page 1, line 16.

Following: "means" on line 16

Strike: remainder of line 16 through "ACCIDENT" on page 2, line 4

Insert: "any insurer as that term is defined by this title, including any fraternal benefit society, hospital service nonprofit corporation, health service corporation, nonprofit medical service corporation, nonprofit health care corporation, health maintenance organization, self-insurer, or third-party administrator or any other public or private, profit or nonprofit, governmental or nongovernmental individual, group, or organization that sells or offers for sale insurance policies, subscriber contracts, certificates, or agreements by which the offerer promises to pay medical benefits in any form in this state"

7. Page 2, line 3.

Strike: "document"

Following: "accepted"

Insert: "claim documentation"

8. Page 2, line 4.

Strike: "made"

Insert: "requested"

9. Page 2, line 7.

Following: "pay"

Insert: "or deny"

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10. Page 2, line 14.

Following: "pay"

Insert: "or deny"

11. Page 2, line 24.

Following: "section"

Insert: "and the insurer is liable for payment of the claim"

12. Page 2, line 25.

Strike: "18%"

Insert: "10%"

13. Page 2, line 29.

Following: "payment."

Insert: "(3) A private cause of action under 33-18-201 or 33-18-242 may not be based on the compliance or noncompliance with the requirements of this section and evidence of compliance or noncompliance with this section is not admissible in any private action based on 33-18-201 or 33-18-242."

14. Page 3, line 19.

Following: line 18

Insert: "NEW SECTION. Section 4. Prompt payment of motor vehicle damage claims. (1) Except for providers who are prepaid or agree to a different payment schedule, an insurer shall make an offer to pay or shall pay all approved claims for covered services or damages that solely involve the recovery of property damages in an amount of \$2,500 or less arising out of the ownership, maintenance, or use of a motor vehicle within 30 working days of receipt of a proof of loss that is correctly completed and submitted to the insurer.

(2) Subsection (1) does not apply to an insurer who has notified the insured or the insured's assignee of the reasons for the insurer's failure to pay the claim in full or to an insurer that has made a reasonable request for additional information or documents."

Insert: "NEW SECTION. Section 5. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 33, chapter 18, and the provisions of Title 33, chapter 18, apply to [section 4]."

And, as amended, be concurred in. Report adopted.

HB 230, be concurred in. Report adopted.

HB 385, be amended as follows:

3/25/2003

1. Title, page 1, line 6.

Following: "STATE;"

Insert: "INCLUDING MOTORCYCLES AS VEHICLES COVERED BY REGISTRATION; SUBSTITUTING SELECTION OF AN ARBITRATOR FOR SELECTION OF AN ARBITRATION PANEL AND DECREASING THE NUMBER OF ARBITRATORS FROM THREE TO ONE;"

2. Title, page 1, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "61-4-501,"

Insert: "61-4-516, 61-4-518, AND 61-4-519,"

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3. Page 1, lines 24 and 25.

Following: "rating" on line 24

Strike: remainder of line 24 through "61-1-105"

4. Page 2, line 5.

Following: line 4

Insert: "**Section 2.** Section 61-4-516, MCA, is amended to read:

"61-4-516. Composition of arbitration panel Selection of arbitrator. An arbitration panel hearing arbitrator for a grievance under this part must consist of three members be chosen by the department of administration. One member must be chosen by the consumer, one member must be chosen by the manufacturer, and one member must be chosen by mutual agreement of the parties. The department of administration may shall maintain a list of persons willing to serve on panels from which the third member may be chosen as an arbitrator."

Insert: "**Section 3.** Section 61-4-518, MCA, is amended to read:

"61-4-518. Arbitration -- role of department of administration -- expert. (1) The department of administration shall investigate, gather, and organize all information necessary for a fair and timely decision in each dispute. The department of administration may, on behalf of the ~~arbitration panel~~ arbitrator, issue subpoenas to compel the attendance of witnesses and the production of documents, papers, and records relevant to the dispute.

(2) If requested by the ~~panel~~ arbitrator, the department of administration may forward a copy of all written testimony and documentary evidence to an independent technical expert certified by the national institute of automotive excellence. The expert may review the material and be available to advise and consult with the ~~panel~~ arbitrator. The expert, at the arbitrator's request, may sit as a nonvoting member of the panel be present whenever oral testimony is presented."

Insert: "**Section 4.** Section 61-4-519, MCA, is amended to read:

"61-4-519. Action by arbitration panel arbitrator -- decision. (1) The ~~arbitration panel~~ arbitrator shall, as expeditiously as possible, but not later than 60 days after the department of administration has accepted a complaint, render a fair decision based on the information gathered and disclose it's the arbitrator's findings and ~~its~~ reasoning to the parties.

(2) The decision must provide appropriate remedies, including but not limited to:

(a) repair of the vehicle;

(b) replacement of the vehicle with an identical vehicle or a comparable vehicle acceptable to the consumer;

(c) refund as provided in 61-4-503(2);

(d) any other remedies available under the applicable warranties or 15 U.S.C. 2301 through 2312, as in effect on October 1, 1983; or

(e) reimbursement of expenses and costs to the prevailing party.

(3) The decision must specify a date for performance and completion of all awarded remedies. The department of administration shall contact the prevailing party within 10 working days after the date for performance to determine whether performance has occurred. The parties shall act in good faith in abiding by any decision. In addition, if the decision is not accepted, the parties shall follow the provisions of Title 27, chapter 5. If it is determined by the court that the appellant has acted without good cause in bringing an appeal of an award, the court, in its discretion, may grant to the respondent costs and reasonable attorney fees."

And, as amended, be concurred in. Report adopted.

HB 474, be concurred in. Report adopted.

HB 525, be amended as follows:

1. Page 1, line 28.

Following: "pressure"

Insert: "and not in excess of 150 horsepower per hour"

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And, as amended, be concurred in. Report adopted.

HB 667, be amended as follows:

1. Page 5, line 12.

Insert: "(3) A person who violates the provisions of subsection (1) shall, for each participant giving consideration, be assessed a civil penalty in an administrative proceeding in an amount not to exceed \$10,000."

And, as amended, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

3/27/2003

SJR 28, be adopted. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

3/27/2003

SB 267, introduced bill, be amended as follows:

1. Title, line 11.

Following: "FEE;"

Insert: "PROVIDING FUNDING FROM EXCESS SCHOOL TRUST LAND INTEREST; ESTABLISHING A TEACHER SIGNING BONUS ACCOUNT;"

2. Title, line 14.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-30-111"

Insert: "AND 20-9-342"

3. Page 3, line 24.

Following: "IN THE"

Strike: "GENERAL FUND"

Insert: "teacher signing bonus account established in [section 2]"

4. Page 4.

Following: line 9

Insert: "(12) Any appropriation made by the legislature for the signing bonus must be made from the teacher signing bonus account established in [section 2]."

Renumber: subsequent subsections

5. Page 4.

Following: line 24

Insert: "NEW SECTION. Section 2. Teacher signing bonus account established. (1) There is an account in the state special revenue fund for state funding of teacher signing bonuses.

(2) Money collected pursuant to [section 4] must be deposited in this account."

Renumber: subsequent sections

6. Page 12.

Following: line 17

Insert: "**Section 4.** Section 20-9-342, MCA, is amended to read:

"20-9-342. Deposit of interest and income money by state board of land commissioners. (1) The Except

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as provided in subsection (2), the state board of land commissioners shall annually deposit the interest and income money for each calendar year into the guarantee account, provided for in 20-9-622, for state equalization aid by the last business day of February following the calendar year in which the money was received.

(2) Any interest and income money, as defined in 20-9-341, that is in excess of \$45,292,000, up to \$6,642,138, must be deposited in the teacher signing bonus account established in [section 2]."

Renumber: subsequent sections

7. Page 12, line 19.

Strike: "[Section 1] is"

Insert: "[Sections 1 and 2] are"

8. Page 12, line 20.

Strike: "[section 1]"

Insert: "[sections 1 and 2]"

And, as amended, do pass. Report adopted.

SB 323, introduced bill, be amended as follows:

1. Title, line 4 through line 6.

Strike: "PROVIDING" on line 4 through "ENTITLEMENTS;" on line 6

2. Page 1, line 19 through line 29.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 2, line 9.

Following: "and"

Strike: "up to"

4. Page 2, line 12.

Strike: "up to"

5. Page 4, line 6.

Following: "and"

Strike: "up to"

6. Page 4, line 9.

Strike: "up to"

7. Page 6, line 10.

Strike: "IS"

Insert: "and health-related benefits, if any health-related benefits are provided to the employee, are"

8. Page 6, line 12.

Strike: "IS"

Insert: "and health-related benefits, if any health-related benefits are provided to the employee, are"

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9. Page 6, line 15.

Strike: "IS"

Insert: "and health-related benefits, if any health-related benefits are provided to the employee, are"

10. Page 11, line 11 through line 15.

Strike: section 6 in its entirety

Renumber: subsequent sections

11. Page 11, line 17.

Strike: "2"

Insert: "1"

12. Page 11, line 19.

Strike: "3"

Insert: "2"

13. Page 11, line 21.

Strike: "1, 4 THROUGH 6, AND 8"

Insert: "3, 4, and 6"

14. Page 11, line 24.

Strike: "2"

Insert: "1"

And, as amended, do pass. Report adopted.

SB 424, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

Strike: line 6 through "RIDERSHIP;" on line 7

2. Title, line 9.

Following: "20-9-370,"

Insert: "AND"

3. Title, line 9 through line 10.

Following: "20-9-371," on line 9

Strike: remainder of line 9 through "20-10-141," on line 10

4. Page 3, line 25 through page 6, line 19.

Strike: section 4 through section 5 in their entirety

Renumber: subsequent sections

5. Page 7, line 19.

Following: "to"

Strike: "one-half of"

And, as amended, do pass. Report adopted.

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SB 458, introduced bill, be amended as follows:

1. Title, line 6 through line 10.

Following: "UTILITY;" on line 6

Strike: remainder of line 6 through "MCA;" on line 10

2. Page 2, line 21 through page 5, line 4.

Strike: section 2 and section 3 in their entirety

Renumber: subsequent sections

3. Page 5, line 13 through line 15.

Strike: section 6 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

3/26/2003

HB 186, be concurred in. Report adopted.

HB 259, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

3/27/2003

HB 545, be amended as follows:

1. Page 3, line 23.

Strike: "EXCEPT" through "(12)(C), THE"

Insert: "The"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 26, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 19** sponsored by Senator Grimes, **Senate Bill 20** sponsored by Senator Grimes, **Senate Bill 68** sponsored by Senator Cromley, **Senate Bill 71** sponsored by Senator Barkus, and **Senate Bill 144** sponsored by Senator Barkus on March 26, 2003.

Sincerely,

JUDY MARTZ
Governor

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March 27, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 16** sponsored by Senator Mangan et al. on March 27, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/26/2003

HB 3, introduced by Brueggeman
HB 4, introduced by Brueggeman
HB 10, introduced by Maedje
HB 11, introduced by Kasten
HB 12, introduced by Kasten
HB 276, introduced by Lindeen
HB 721, introduced by Erickson

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 3, introduced by Brueggeman (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
HB 4, introduced by Brueggeman (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
HB 10, introduced by Maedje (by request of the Department of Environmental Quality and the Office of Budget and Program Planning), referred to Finance and Claims.
HB 11, introduced by Kasten (by request of the Department of Commerce and the Office of Budget and Program Planning), referred to Finance and Claims.
HB 12, introduced by Kasten (by request of the Department of Environmental Quality and the Office of Budget and Program Planning), referred to Finance and Claims.
HB 276, introduced by Lindeen, referred to Finance and Claims.
HB 721, introduced by Erickson, referred to Taxation.

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:10 p.m. this day, for purpose of party caucuses. Motion carried.

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Senate recessed at 12:41 p.m.

Senate reconvened at 1:14 p.m.

Roll call. All members present except Senator Gebhardt, excused. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Tester excused at this time.

HB 289 - Senator Wheat moved **HB 289** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Mr. President.
Total 41

Nays: Bales, Cobb, Cocchiarella, Esp, Shea, Story, Zook.
Total 7

Absent or not voting: None.
Total 0

Excused: Gebhardt, Tester.
Total 2

Senator Tester present at this time.

HB 317 - Senator Cromley moved **HB 317** be concurred in. Motion carried with Senator Butcher voting nay.

HB 458 - Senator Hansen moved **HB 458** be concurred in. Motion carried unanimously.

HB 549 - Senator Tropila moved **HB 549** be concurred in. Motion carried unanimously.

HB 437 - Senator McCarthy moved **HB 437** be concurred in. After discussion, Senator Ellingson made a **substitute motion** that **HB 437**, second reading copy, be amended as follows:

1. Page 4, line 25.

Following: "CONSTITUTIONALITY OF"

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Insert: "a statute impacting"

2. Page 5, line 18.

Following: "unconstitutionality"

Insert: "of a statute"

Amendment **not adopted** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, Mangan, Nelson, Pease, Roush, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 20

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Glaser, Grimes, Harrington, Johnson, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Ryan, Shea, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: Gebhardt, Stapleton.

Total 2

HB 437 - Senator McCarthy moved **HB 437** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Glaser, Grimes, Harrington, Johnson, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Shea, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, Mahlum, Mangan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: Gebhardt, Roush, Sprague.

Total 3

HB 610 - Senator Butcher moved **HB 610**, second reading copy, be amended as follows:

1. Page 1, line 19 through line 20.

Strike: "for" on line 19 through "PERIOD" on line 20

Insert: "as provided in subsection (5)"

2. Page 2.

Following: line 5

Insert: "(5) A public hearing is not required for a cumulative rate increase of less than or equal to 5% within a 12-month

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period if the board provides notification of the increase to persons within the district on whom the rate will be imposed at least 10 days prior to the passage or enactment of the ordinance or resolution implementing the increase."

Amendment **adopted** unanimously.

HB 610 - Senator Butcher moved **HB 610**, as amended, be concurred in. Motion carried with Senator Cobb voting nay.

HB 54 - Senator Wheat moved **HB 54** be concurred in. Motion carried unanimously.

HB 159 - Senator Keenan moved **HB 159** be concurred in. Motion carried unanimously.

HB 183 - Senator Roush moved **HB 183** be concurred in. Motion carried unanimously.

HB 196 - Senator Sprague moved **HB 196** be concurred in. Motion carried with Senator Cocchiarella voting nay.

HB 323 - Senator Cooney moved **HB 323** be concurred in. Motion carried unanimously.

Senator Cobb excused at this time.

HB 338 - Senator Harrington moved **HB 338** be concurred in. After discussion, Senator Thomas made a **substitute motion** to move consideration of HB 338 to the bottom of the board. Motion carried.

HB 340 - Senator Cromley moved **HB 340** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise, report progress and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 201, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Butcher, Cobb, Gebhardt, Mangan.

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Total 4

REPORTS OF STANDING COMMITTEES

JUDICIARY (Grimes, Chairman): 3/27/2003
HB 293, be concurred in. Report adopted.
HB 456, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman): 3/27/2003
SB 464, introduced bill, be amended as follows:

1. Title, line 6.

Following: "ESTABLISHMENTS;"

Insert: "PROVIDING FOR LICENSURE OF FOOD ESTABLISHMENTS OPERATED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE UNLESS THEY EMPLOY A FULL-TIME SANITARIAN; EXEMPTING ESTABLISHMENTS OPERATED BY NONPROFIT ORGANIZATIONS THAT DO NOT SERVE POTENTIALLY HAZARDOUS FOOD;"

2. Title, line 8.

Following: "50-50-103,"

Insert: "50-50-201,"

3. Page 2, line 25.

Following: "group,"

Insert: "the state or a political subdivision of the state,"

4. Page 3, line 28.

Following: "means a"

Strike: "temporary"

Following: "service establishment"

Insert: "operated by a nonprofit organization"

5. Page 3, line 29.

Strike: "14 consecutive"

Insert: "13"

Following: "days"

Strike: remainder of line 29

Insert: "in 1 calendar year."

6. Page 4, line 15.

Strike: "may"

Insert: "shall"

7. Page 4, line 16.

Strike: "Any"

Insert: "The"

8. Page 4, line 20.

Following: line 19

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Insert: "Section 3. Section 50-50-201, MCA, is amended to read:

"50-50-201. License required. (1) Except as provided in 50-50-202, a person operating an establishment shall procure an annual license or a person operating a temporary risk establishment shall procure a license from the department.

(2) A separate license is required for each establishment, but if more than one type of establishment is operated on the same premises and under the same management, only one license is required.

(3) Only one license is required for a person owning and operating one or more vending machines.

(4) A license issued by the department is not valid unless signed in accordance with 50-50-214.""

Renumber: subsequent sections

9. Page 4, line 22 and line 23.

Following: "requirement --" on line 22

Strike: remainder of line 22 through "license --" on line 23

10. Page 4, line 24.

Following: "state" on line 24

Insert: "that employ a full-time sanitarian"

11. Page 4, line 26.

Following: "not"

Insert: "not"

Strike: "a temporary risk"

Insert: "an"

12. Page 4, line 27.

Following: "year"

Insert: "if it is operated by a nonprofit organization for a period of less than 14 days in 1 calendar year and does not prepare, serve, or provide potentially hazardous food"

Strike: "subject to"

Insert: "exempt from"

13. Page 5, line 22.

Strike: "that"

14. Page 6, line 29.

Strike: "4, 6, and 8"

Insert: "5, 7, and 9"

15. Page 7, line 1.

Strike: "5"

Insert: "6"

16. Page 7, line 3.

Strike: "4"

Insert: "5"

And, as amended, do pass. Report adopted.

HB 90, be amended as follows:

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1. Page 8, line 19.

Following: "(3)"

Insert: "(a)"

2. Page 8.

Following: line 21

Insert: "(b) The department shall inform a parent or other person responsible for a child's welfare who is considering entering into a voluntary protective services agreement that the parent or other person may have another person of the parent's or responsible person's choice present whenever the terms of the voluntary protective services agreement are under discussion by the parent or other person responsible for the child's welfare and the department. Reasonable accommodations must be made regarding the time and place of meetings at which a voluntary protective services agreement is discussed."

And, as amended, be concurred in. Report adopted.

HB 205, be concurred in. Report adopted.

HB 384, be concurred in. Report adopted.

HB 484, be amended as follows:

1. Page 2, line 29.

Following: "counseling"

Insert: "that holds the offender accountable for the offender's violent or controlling behavior"

2. Page 3, line 3 through line 4.

Strike: "THAT" on line 3 through "BEHAVIOR" on line 4

And, as amended, be concurred in. Report adopted.

HB 524, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

3/27/2003

SR 5, be adopted. Report adopted.

HB 563, be amended as follows:

1. Page 4, line 14.

Insert: "NEW SECTION. Section 5. Coordination instruction. (1) If House Bill No. 532 and [this act] are both passed and approved, then [section 3 of this act] amending 85-8-302, is void.

(2) If House Bill No. 190 and [this act] are both passed and approved, then [section 29] of House Bill No. 190, amending 13-13-213, is void."

And, as amended, be concurred in. Report adopted.

HB 602, be concurred in. Report adopted.

HB 609, be amended as follows:

1. Page 1.

Following: line 25

Insert: "WHEREAS, a tribute to American Indians from throughout Montana would highlight the contributions of individual soldiers, including a great-grandson of Salish Chief Charlo, Private First Class Louis Charles Charlo,

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who died on Iwo Jima after being one of the original Marines to plant a flag on Mount Suribachi, which action later was memorialized and serves as the basis for the Iwo Jima U.S. Marine Corps Memorial in Arlington, Virginia; and

And, as amended, be concurred in. Report adopted.

HB 680, be amended as follows:

1. Title, page 1, lines 5 through 6.

Strike: "ALLOWING" on line 5 through "FILING;" on line 6

2. Title, page 1, line 7.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE"

3. Page 1, line 11.

Following: "by the"

Insert: "appropriate"

4. Page 1, line 12.

Strike: "3(2)"

Insert: "2"

5. Page 1, line 18.

Strike: ", which must" through "information:"

6. Page 1, lines 28 through page 2, line 8.

Strike: "(I) THE COUNTY" on page 1, line 28 through "(1)(C)(III)" on page 2, line 8

7. Page 2, line 9.

Following: "(1)(e)"

Insert: " and except for page numbers or other designations"

8. Page 2, line 17.

Strike: "3(2)"

Insert: "2"

9. Page 2, line 21.

Strike: "3"

Insert: "2"

10. Page 2, line 26 through page 3, line 4.

Strike: section 2 in its entirety

11. Page 3, line 12.

Insert: "(3) Any fee collected under subsection (2) must be deposited in the records preservation fund provided for in 7-4-2635. The fees collected under subsection (2) may be used only for maintaining, upgrading, or installing systems to digitally record and retrieve documents."

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12. Page 3, line 14.

Strike: "3(2)"

Insert: "2"

13. Page 4, line 20.

Strike: "through 3"

Insert: "and 2"

14. Page 4, line 22.

Strike: "through 3"

Insert: "and 2"

15. Page 4, line 23.

Insert: "NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2005."

And, as amended, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

3/27/2003

SB 470, introduced bill, be amended as follows:

1. Page 17, line 11.

Following: "fertilizers"

Insert: "-- equipment"

2. Page 17, line 19.

Strike: "and"

3. Page 17.

Following: line 19

Insert: "(7) agricultural implements and equipment; and"

Renumber: subsequent subsections

4. Page 17, line 21.

Strike: "(6)"

Insert: "(7)"

5. Page 38, line 16 through page 39, line 3.

Strike: page 38, line 16 through page 39 line 3 in their entirety

Insert: "(a) for collections made during calendar year 2004:

(i) to the general fund for reimbursement for direct state aid to schools, in an amount equal to the difference between 44.7% and 80% of the basic entitlement plus 40% of the special education allowable cost payment; and

(ii) 55% of the balance to be deposited in the state general fund; and

(iii) the remaining 45% of the balance allocated to the department of revenue to be refunded on a pro rata basis to each taxpayer who filed a state income tax return, pursuant to 15-30-103, for tax year 2002. The amount must be calculated by the department of revenue by dividing the amount available for refund by the total individual income tax liability as determined by the department from all returns for 2002. The department of revenue shall calculate the amount of each taxpayer's refund based on the amount in the "total tax" line of the taxpayer's return. A refund may not be issued if the amount of the refund is \$10 or less. The payments must be mailed in August 2005 to each taxpayer at the most current address for the taxpayer on the department's records.

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- (b) for collections made between January 1, 2005, and June 30, 2005:
 - (i) the amount necessary to the state general fund for reimbursement for direct state aid to schools, the tax credits for payments of statewide school levies, the low-income sales tax refundable income tax credit, the reduction of income tax rates, and the capital gains income tax credit;
 - (ii) 10% of the balance to the revenue stabilization and disaster account established in [section 62]; and
 - (iii) the remaining 90% of the balance allocated to the department of revenue to be refunded on a pro rata basis to each taxpayer who filed a state income tax return, pursuant to 15-30-103, for tax year 2003. The amount must be calculated by the department of revenue by dividing the amount available for refund by the total individual income tax liability as determined by the department from all returns for 2003. The department of revenue shall calculate the amount of each taxpayer's refund based on the amount in the "total tax" line of the taxpayer's return. A refund may not be issued if the amount of the refund is \$10 or less. The payments must be mailed to each taxpayer at the most current address for the taxpayer on the department's records.
- (c) for each fiscal year beginning after June 30, 2005:
 - (i) the amount necessary to the state general fund for reimbursement for direct state aid to schools, the tax credits for payments of statewide school levies, the low-income sales tax refundable income tax credit, the reduction of income tax rates, and the capital gains income tax credit;
 - (ii) an amount, not to exceed 20% of the balance, to be deposited in the general fund upon approval by a vote of 60% of the members of the house of representative and 60% of the members of the senate;
 - (iii) the balance, after any deposit in the general fund under subsection (4)(c)(ii) to be allocated as follows:
 - (A) 10% to be deposited in the revenue stabilization and disaster account established in [section 62] if the account has not reached the account limit; and
 - (B) the remainder to the department of revenue for distribution as a refund to income taxpayers who filed an income tax return for taxes due under 15-30-103 for the sales tax refund tax year. The sales tax refund tax year is the income tax year immediately preceding the previous calendar year. The amount available for refund must be refunded on a pro rata basis to each taxpayer who filed a state income tax return, pursuant to 15-30-103, for the sales tax refund tax year. The amount must be calculated by the department of revenue by dividing the amount available for refund by the total individual income tax liability as determined by the department from all returns for the sales tax refund tax year. The department of revenue shall calculate the amount of each taxpayer's refund based on the amount in the "total tax" line of the taxpayer's return. A refund may not be issued if the amount of the refund is \$10 or less. The payments must be mailed to the most current address for the taxpayer on the department's records no later than December 15.
- (5) For the purposes of subsection (4):
 - (a) the term "taxpayer" does not include a fiduciary or a beneficiary of an estate or trust who was required to file an income tax return pursuant to 15-30-135 unless a return was filed on behalf of a decedent;
 - (b) a return filed using the filing status married filing jointly is considered to have been filed by a single taxpayer."

Renumber: subsequent subsection

6. Page 47, line 5 through line 6.

Strike: "MAY" on line 5 through "AND" on line 6

Strike: "AT LEAST 80% OF" on line 6

7. Page 47, line 29 through line 30.

Strike: "THAT" on line 29 through "INCOME," on line 30

8. Page 48, line 2.

Strike: "PERCENTAGE"

Insert: "Amount"

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9. Page 48, line 4.

Strike: "\$15,000"

Insert: "\$16,000"

Strike: "3.1%"

Insert: "\$300"

10. Page 48.

Following: line 4

Insert: "\$16,001 to \$20,000 \$250"

11. Page 48, line 5.

Strike: "1.15%"

Insert: "\$200"

12. Page 48, line 6.

Strike: "0.575%"

Insert: "\$150"

13. Page 48, line 7.

Strike: "0.30%"

Insert: "\$100"

14. Page 38, line 8.

Strike: "0.1%"

Insert: "\$0"

15. Page 135, line 29.

Strike: "subsection"

Insert: "subsections"

Following: "(2)"

Insert: "and (3)"

And, as amended, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE

on Senate Amendments to **House Bill 403**

Report No. 1, March 27, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 403** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 403** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 4.

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Strike: "A GENERAL"

Insert: "EACH"

2. Title, page 1, line 5.

Following: "OF"

Insert: "THE CONTRACTOR'S"

3. Page 1, line 15.

Strike: "a GENERAL"

Insert: "each"

4. Page 1, line 16.

Following: "by"

Insert: "contractor's"

5. Page 1, line 24.

Strike: "a GENERAL"

Insert: "each"

Following: "contractor's"

Insert: "contractor's"

For the House:

Steinbeisser, Chairman
Keane
Lange

For the Senate:

Anderson, Chairman
Cocchiarella
DePratu

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 487, introduced by Pease, Keenan, referred to Taxation.

MOTIONS

SJR 28 - Senator Cooney moved **SJR 28** be taken from second reading and rereferred to the committee on Education and Cultural Resources. Motion **failed** as follows:

Yeas: Butcher, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

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Excused: Cobb, Gebhardt.
Total 2

Majority Leader Thomas moved the Senate stand in recess until the hour of 4:00 p.m. this legislative day. Motion carried.

Senate recessed at 2:54 p.m.

Senate resumed at 4:05 p.m.

Roll call. All members present except Senators Bales, Elliott, Gebhardt, Hansen, McGee, Schmidt, Shea, Sprague, Tash and Tropila, excused. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 554 - Senator Stonington moved **HB 554** be concurred in. Motion carried unanimously.

HB 564 - Senator Johnson moved **HB 564**, second reading copy, be amended as follows:

1. Page 3, line 30 through page 4, line 1.

Following: "DEVELOPMENT," on line 30

Strike: remainder of line 30 through "53-2-1204," on page 4, line 1

Amendment **adopted** unanimously.

HB 564 - Senator Johnson moved **HB 564**, second reading copy, be further amended as follows:

1. Page 2.

Following: line 2

Insert: "(1) "Average weekly wage" has the meaning provided in 39-71-116."

Renumber: subsequent subsections

2. Page 5, line 23 and line 24.

Following: "trained" on line 23

Strike: remainder of line 23 through "represents" on line 24

Insert: ". A grant may be provided only for a new job that has an average weekly wage that meets or exceeds"

3. Page 5, line 24 through line 25.

Following: "current"

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Strike: remainder of line 24 through "programs" on line 25

Insert: "average weekly wage"

4. Page 5, line 25.

Following: "CURRENT"

Strike: "MEDIAN INCOME LEVEL"

Insert: "average weekly wage"

5. Page 5, line 27.

Following: "CURRENT"

Strike: "MEDIAN INCOME LEVEL"

Insert: "average weekly wage"

Amendment **adopted** unanimously.

Senator Elliott present at this time.

HB 564 - Senator Johnson moved **HB 564**, as amended, be concurred in. Motion carried unanimously.

HB 642 - Senator McNutt moved consideration of **HB 642** be passed for the day. Motion carried.

HB 703 - Senator Stonington moved **HB 703** be concurred in. Motion carried unanimously.

HB 197 - Senator Wheat moved **HB 197** be concurred in. Motion carried unanimously.

HB 338 - Senator Cocchiarella moved **HB 338**, second reading copy, be amended as follows:

1. Page 2, line 20.

Strike: "(00.575)"

Insert: "(.00575)"

Amendment **adopted** unanimously.

Senators Bales, Hansen, McGee, Shea, Schmidt, Sprague, Tash and Tropila present at this time.

HB 338 - Senator Harrington moved **HB 338**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Thomas, Toole, Tropila, Wheat.

Total 33

Nays: Anderson, Barkus, Black, Butcher, Esp, Grimes, Laible, McGee, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Zook, Mr. President.

Total 16

Absent or not voting: None.

Total 0

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Excused: Gebhardt.
Total 1

HB 354 - Senator Sprague moved **HB 354** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 43

Nays: Butcher, McGee, Stapleton, Story, Mr. President.
Total 5

Absent or not voting: None.
Total 0

Excused: Gebhardt, Mangan.
Total 2

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Grimes, Chairman):
HB 256, be amended as follows:

3/27/2003

1. Title, line 5.

Following: "OFFICERS;"

Insert: "ALLOWING AGREEMENTS WITH LOCAL LAW ENFORCEMENT AGENCIES TO EXPAND JURISDICTION;"

2. Page 1, line 17 through line 18.

Following: "activities," on line 17

Strike: remainder of line 17 through "(3), in" on line 18

Insert: "for campus-related activities,"

3. Page 1, line 19.

Following: "campus;"

Strike: "and"

4. Page 1, line 21.

Following: "system"

Insert: "; and

(c) if an agreement is reached under subsection (3), for activities and in areas described in the agreement"

5. Page 1, line 22.

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Following: "serve"

Strike: "and"

Insert: "or"

6. Page 1, line 23 through line 26.

Strike: subsection (3) in its entirety

Insert: "(3) Any university system security department may seek an agreement with local law enforcement agencies that specifies geographic and subject matter jurisdiction of campus security officers in areas outside the area described in subsections (1)(a) and (1)(b)."

And, as amended, be concurred in. Report adopted.

HB 489, be amended as follows:

1. Page 3, line 17.

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 134 and [this act] are both passed and approved, then [this act] is void."

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 536, be amended as follows:

1. Page 3, line 3.

Following: "INSPECTION."

Insert: "A seller, landlord, seller's agent, buyer's agent, or property manager who provides this mold disclosure statement, provides for the disclosure of any prior testing and any subsequent mitigation or treatment for mold, and discloses any knowledge of mold is not liable in any action based on the presence of or propensity for mold in a building that is subject to any contract to purchase, rent, or lease."

2. Page 3, line 4.

Following: "(2)"

Insert: "Whenever a seller or landlord or an agent of either has knowledge that a building has mold present, the seller, landlord, or agent shall, prior to or upon entry into a contract for the purchase, rent, or lease, disclose to the buyer or renter the presence of the mold."

Following: the second "landlord"

Insert: ", prior to or upon entry into a contract for the purchase, rent, or lease of that building, shall advise the buyer or tenant that testing has occurred and"

3. Page 3, line 5 through line 6.

Following: "tenant" on line 5

Strike: remainder of line 5 through "building," on line 6

4. Page 3, line 6.

Following: "test"

Insert: ", if available, to the seller or landlord"

5. Page 3, line 7.

Following: the second "testing"

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Insert: "and shall provide a copy of the results of that test, if available, to the seller or landlord"

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):
HB 663, be concurred in. Report adopted.

3/27/2003

MOTIONS

Majority Leader Thomas moved to **suspend Senate Rule 30-120** which requires a 3 day notice of a scheduled hearing, to accommodate the hearing schedule next week. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 45

Nays: Cobb, Schmidt, Mr. President.

Total 3

Absent or not voting: None.

Total 0

Excused: Gebhardt, McCarthy.

Total 2

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 12:30 p.m., Friday, March 28, 2003. Motion carried.

Senate adjourned at 5:13 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
March 28, 2003

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-fifth legislative day.

REPORTS OF STANDING COMMITTEES

Examined by the sponsor and found to be correct: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257, SJR 3.**

Signed by the President at 3:00 p.m., March 26, 2003: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257, SJR 3.**

Signed by the Secretary of the Senate at 8:30 a.m., March 27, 2003: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257, SJR 3.**

Signed by the Speaker at 11:05 a.m., March 27, 2003: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257, SJR 3.**

Delivered to the Governor for approval at 9:20 a.m., March 28, 2003: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257.**

Delivered to the Secretary of State at 9:30 a.m., March 28, 2003: **SJR 3.**

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

3/27/2003

HB 226, be concurred in. Report adopted.

HB 419, be concurred in. Report adopted.

HB 591, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

3/28/2003

HB 698, be amended as follows:

1. Page 4, line 4.

Following: "county treasurer"

Insert: "to the department of revenue"

2. Page 4, line 8.

Following: "county treasurer"

Insert: "to the department of revenue"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 28, 2003

The Honorable Bob Keenan
President of the Senate

SENATE JOURNAL
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State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 45** sponsored by Senator Gebhardt, **Senate Bill 55** sponsored by Senator Keenan, **Senate Bill 56** sponsored by Senator Keenan, **Senate Bill 64** sponsored by Senator Keenan, **Senate Bill 87** sponsored by Senator Hansen, and **Senate Bill 102** sponsored by Senator McNutt on March 28, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/27/2003

HB 705, introduced by E. Clark
HB 743, introduced by E. Clark

Senate amendments to House bills concurred in: 3/27/2003

HB 285, introduced by R. Brown
HB 333, introduced by Waitschies
HB 350, introduced by Cohenour
HB 428, introduced by Keane
HB 583, introduced by R. Brown

MOTIONS

HB 302 - Senator Ryan moved **HB 302** be taken from the committee on Education and Cultural Resources and that it be printed and placed on second reading the 67th legislative day, March 28, 2003. Motion **passed** as follows:

Yeas: Anderson, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 34

Nays: Bales, Bohlinger, Curtiss, Esp, Glaser, Grimes, Johnson, Mahlum, McGee, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 438 and **HB 642** - Senator Thomas moved consideration of **HB 438** and **HB 642** be placed on second reading on the 68th legislative day, March 31, 2003. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 705, introduced by E. Clark, referred to Finance and Claims.

HB 743, introduced by E. Clark (by request of the House Joint Appropriations Subcommittee on Health and Human Services), referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 458 - Senator O'Neil moved **SB 458**, second reading copy, be amended as follows:

1. Page 1, line 21 through page 2, line 10.

Strike: line 21 through page 2, line 10 in their entirety

Renumber: subsequent subsection

2. Page 5, line 9 through line 11.

Strike: section 3 in its entirety

Renumber: subsequent sections

Amendment **not adopted** as follows:

Yeas: Cooney, Curtiss, Ellingson, Elliott, Esp, Grimes, O'Neil, Roush, Ryan, Schmidt, Stonington, Tester, Toole, Wheat.
Total 14

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, DePratu, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 35

Absent or not voting: Stapleton.
Total 1

Excused: None.
Total 0

SB 458 - Senator McNutt moved **SB 458** do pass. After discussion, Senator Cooney made a **substitute motion** that **SB**

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458, second reading copy, be amended as follows:

1. Title, page 1, line 5.

Strike: "SHAREHOLDERS OF INNOCENT THIRD-PARTY PURCHASERS"

Insert: "OFFICERS, DIRECTORS, LEGAL ADVISERS, AND CONSULTANTS OF NORTHWESTERN CORPORATION"

2. Page 1, line 21.

Strike: "an" through "69"

Insert: "northwestern corporation"

Strike: "the entity's"

Insert: "its"

3. Page 1, line 28.

Strike: "an" through "69"

Insert: "northwestern corporation"

4. Page 2, line 16 through line 19.

Strike: "the purchaser" on line 16 through "assumption" on line 19

Insert: "northwestern corporation"

Amendment **not adopted** as follows:

Yeas: Cooney, Ellingson, Elliott, Gebhardt, Hansen, Nelson, O'Neil, Pease, Schmidt, Stonington, Tester, Toole, Wheat.
Total 13

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 37

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Roush expressed a conflict of interest in **SB 458** as he is a former employee of Montana Power Company.

SB 458 - Senator McNutt's do pass motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, Elliott, Glaser, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Perry, Roush, Ryan, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 33

Nays: Cooney, Cromley, DePratu, Ellingson, Esp, Gebhardt, Grimes, Hansen, Nelson, O'Neil, Pease, Schmidt, Stapleton, Stonington, Tester, Toole, Wheat.
Total 17

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 54, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

HB 159, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Gebhardt.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 183, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 196 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Cocchiarella, Ellingson.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 197, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 289, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 41

Nays: Bales, Cobb, Cocchiarella, Esp, Gebhardt, Laible, Shea, Story, Taylor.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 317, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Gebhardt.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 323 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

HB 340 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 354 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Butcher, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 437, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 33

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Mahlum, Mangan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 17

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

HB 458 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 549 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: McGee, Story.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 554 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 703, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

3/28/2003

HB 304, be amended as follows:

1. Title, page 1, line 9.

Strike: "OFFERING TO SELL"

Insert: "SELLING"

2. Title, page 1, line 11.

Following: "COMMISSION;"

Insert: "SPECIFYING THAT THE REDUCED TAX RATE IS IN EFFECT FOR 2 YEARS AFTER CERTAIN CONDITIONS ARE MET;"

3. Page 1, line 29.

Strike: "to sell"

Insert: "and sells"

4. Page 1, line 30.

Strike: "the first"

5. Page 2, line 3.

Following: "(1)(b)"

Insert: ":",
(i)"

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6. Page 2, line 4.

Following: "occurred"

Strike: " "

Insert: " ; "

7. Page 2.

Following: line 4

Insert: "(ii) applies only to the amount of coal that is used for the production of electricity that is sold to Montana customers and distribution services providers; and

(iii) remains in effect for 2 years from December 31 of the year in which the department determines that the conditions in subsection (1)(b) have occurred."

8. Page 2, line 26.

Strike: "to sell"

Insert: "and sells"

9. Page 2, line 27.

Strike: "the first"

10. Page 2, line 30.

Following: "(1)(b)"

Insert: ":

(i)"

11. Page 3, line 1.

Following: "occurred"

Strike: " "

Insert: " ; "

12. Page 3.

Following: line 1

Insert: "(ii) applies only to the amount of coal that is used for the production of electricity that is sold to Montana customers and distribution services providers; and

(iii) remains in effect for 2 years from December 31 of the year in which the department determines that the conditions in subsection (1)(b) have occurred."

13. Page 3.

Following: line 7

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 472 and [this act] are both passed and approved, [this act] is void."

Insert: "NEW SECTION. Section 3. Notification of code commissioner. The department of revenue shall notify the code commissioner when the conditions in 15-35-103(1)(b) have occurred."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 337, be amended as follows:

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1. Page 1, line 29.

Strike: "(a) Except as provided in subsection (4)(b), a"

Insert: "A"

2. Page 2, line 1.

Following: "year."

Insert: "an application for approval of"

3. Page 2, line 2.

Following: "poles."

Insert: "The cost schedule is effective on a temporary basis, subject to a rebate and a surcharge as provided in 69-3-304, 30 days after the filing of a cost schedule and pending a final order of the commission, unless the commission first determines that the cost schedule is above cost."

4. Page 2, line 3 through line 5.

Strike: subsection (b) in its entirety

5. Page 2, line 28.

Strike: "or"

Following: "structure,"

Insert: "or prefabricated structure that is intended to be moved from the place of fabrication, storage facility, or dealer's lot,"

6. Page 3, line 9 through line 10.

Following: "is" on line 9

Strike: ";" on line 9 through "(i)" on line 10

7. Page 3, line 11 through line 13.

Strike: ";" on line 11 through "lot" on line 13

And, as amended, be concurred in. Report adopted.

HB 641, be amended as follows:

1. Title, page 1, line 5 through line 6.

Strike: ""INTEREXCHANGE" on line 5 through the second "CARRIER"" on line 6

Insert: "CERTAIN TERMS"

Following: ";" on line 6

Strike: "AND"

2. Title, page 1, line 7.

Following: "MCA"

Insert: ";; AND PROVIDING AN EFFECTIVE DATE"

3. Page 1.

Following: line 12

Insert: "(1) "Commercial mobile radio service" means commercial mobile radio service as defined in 47 CFR 20.9."

Renumber: subsequent subsections

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4. Page 1, line 22 through line 25.

Strike: subsection (5) in its entirety

Insert: "(6) "Local telecommunications" means:

(a) telecommunications originating in a wireline local calling area, including extended area service areas, and terminating in the same wireline local calling area or extended area service area; or

(b) commercial mobile radio service that originates from or terminates to a commercial mobile radio service provider within the same major trading area as defined in 47 CFR 24.202(a).

(7) "Nonlocal telecommunications" means:

(a) wireline telecommunications traffic carried by either an interlocal access transport area carrier or an intralocal access transport area toll provider that originates in one wireline local calling area and terminates in another wireline local calling area; or

(b) commercial mobile radio service that originates in a major trading area and terminates in a different major trading area, as defined in 47 CFR 24.202(a)."

Renumber: subsequent subsections

5. Page 1, line 26.

Following: "network"

Insert: "a customer originates"

6. Page 1, line 27.

Strike: "originates"

7. Page 3.

Following: line 6

Insert: "(16) (a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to a transiting carrier or carriers for delivery to a terminating carrier.

(b) The term does not mean traffic carried by interlocal access transport area carriers or providers of intralocal access transport area toll services."

8. Page 3, line 7.

Following: "carrier"

Insert: "or carriers"

Strike: "transports"

Insert: "transport transit"

9. Page 3, line 8.

Following: the second "carrier"

Insert: "and that does not originate or terminate telecommunications traffic"

10. Page 3, line 10.

Strike: "Interexchange services – nondiscriminatory"

Insert: "Nondiscriminatory"

11. Page 3, line 11.

Following: "billing records –"

Insert: "enforcement --"

Strike: "INTEREXCHANGE SERVICES"

Insert: "local telecommunications service"

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12. Page 3, line 14 through line 24.

Strike: "INTEREXCHANGE" on line 14 through "carrier." on line 24

Insert: "local telecommunications service."

(2) A provider of intralocal access transport area toll services or any other carrier that provides nonlocal telecommunications services in Montana shall transmit with its telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge for the termination of the telecommunications traffic.

(3) A transiting carrier shall deliver telecommunications traffic to terminating carriers by means of facilities that enable the terminating carrier to receive from the originating carrier any and all information that the originating carrier transmits with its telecommunications traffic that enables the terminating carrier to identify, measure, and appropriately charge the originating carrier or the interlocal access transport area carrier or intralocal access transport area toll provider of nonlocal telecommunications traffic for the termination of its telecommunications traffic."

Renumber: subsequent subsections

13. Page 3, line 25.

Following: "records"

Insert: "for its transit traffic"

14. Page 3, line 26 through line 27.

Strike: "THE" on line 26 through "carrier." on line 27

Insert: "The transiting carrier shall provide billing records pursuant to existing policies and agreements until the commission adopts rules pursuant to subsection (7)."

15. Page 3, line 28.

Strike: "AN ORIGINATING CARRIER"

Insert: "A local exchange carrier or commercial mobile radio services provider "

Following: "LOCAL"

Insert: "telecommunications"

16. Page 3, line 29.

Strike: "ENTER INTO"

Insert: "negotiate"

17. Page 3, line 30.

Following: "69-3-839."

Insert: "The interconnection agreement must include rates, terms, and conditions for reciprocal compensation for the transport and termination of local telecommunications traffic."

18. Page 4, line 1 through line 6.

Strike: subsection (5) in its entirety

Insert: "(6) A telecommunications carrier registered to provide telecommunications services in Montana pursuant to 69-3-805 may file a complaint with the commission requesting enforcement of this section, including enforcement of an agreement approved by the commission under 69-3-839. Upon the filing of a complaint, the commission may authorize the terminating carrier to refuse to terminate traffic from the originating carrier or the commission may authorize interim payments. The commission may order compensation to the terminating carrier and may order other appropriate relief."

Renumber: subsequent subsection

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19. Page 4, line 7.

Strike: "may"

Insert: "shall"

20. Page 4, line 8 through line 10.

Strike: "define" on line 8 through "usage" on line 10

Insert: "identify what type of transit records are available and what the cost of the transit records should be and must determine which party is responsible for the payment of detailed call records to the transiting carrier"

21. Page 4.

Following: line 17

Insert: "NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2003."

And, as amended, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):
SB 218, introduced bill, be amended as follows:

3/28/2003

1. Title, line 4.

Following: "CREATING A"

Insert: "COMBINED"

Following: "STATEWIDE"

Insert: "CRIMINAL TRIAL AND APPELLATE"

2. Title, line 4 through line 5.

Following: "SYSTEM" on line 4

Strike: remainder of line 4 through "TRIALS" on line 5

3. Title, line 6.

Following: line 5

Strike: "CREATING THE PUBLIC DEFENDER COMMISSION AND"

Following: "MAKING THE"

Insert: "PUBLIC DEFENDER"

4. Title, line 7.

Following: the first "THE"

Insert: "STATEWIDE"

Following: "TRIAL"

Insert: "AND APPELLATE"

5. Title, line 10.

Following: "PROTECTIONS;"

Insert: "ESTABLISHING A DISTRICT COURT ASSUMPTION AND INDIGENT DEFENSE CONTINGENT EXPENSE ACCOUNT; ESTABLISHING A USER SURCHARGE; REQUIRING INTERIM REPORTS;"

6. Title, line 11.

Following: "SECTIONS"

Insert: "2-15-1020,"

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Following: "46-8-201,"

Strike: "AND"

Following: "46-8-202,"

Insert: "46-8-210, AND 46-8-212,"

Following: "MCA;"

Insert: "REPEALING SECTION 46-8-211, MCA;"

7. Page 1, line 16 through page 2, line 20.

Strike: section 1 in its entirety

Insert: "**Section 1.** Section 2-15-1020, MCA, is amended to read:

"2-15-1020. Appellate Public defender commission -- duties -- rules. (1) There is ~~an appellate~~ a public defender commission.

(2) The commission consists of five members appointed by the governor as follows:

(a) one district judge nominated by the district judges under a nominating procedure initiated and conducted by the supreme court and certified by the chief justice of the supreme court;

(b) three attorneys. In selecting the attorney appointees, the governor shall consider recommendations submitted by the president of the state bar of Montana, as follows:

(i) at least two attorneys who are experienced in the defense of felonies, at least one of whom has served a minimum of 1 year as a full-time public defender for a governmental agency or a public corporation; and

(ii) at least one attorney who has been licensed to practice law in this state for a minimum of 10 years.

(c) one member of the general public who is not an attorney or a judge, active or retired.

(3) The members shall serve staggered 3-year terms.

(4) The commission is allocated to the department of administration for administrative purposes only pursuant to 2-15-121. The commission shall meet at least two times a year.

(5) A member of the commission may not while serving a term on the commission serve as a county attorney or a deputy county attorney, the attorney general or an assistant attorney general, the United States district attorney or an assistant United States district attorney, or a law enforcement official.

(6) Members of the commission may not receive a salary for service on the commission but must be reimbursed for expenses, as provided in 2-18-501 through 2-18-503, while actually engaged in the discharge of official duties.

(7) The commission shall make rules for the conduct of its affairs.

(8) The commission shall develop a system of ~~indigent trial and~~ appellate defense services for indigent defendants to be provided by salaried or contracted public defenders, as provided in 46-8-202, and shall develop and disseminate standards, procedures, training, and policies that will ensure that criminal defense is conducted consistently and uniformly throughout Montana.

(9) The commission shall appoint a chief public defender, as provided in [section 7]. The chief public defender shall act as secretary to the commission.

(10) The commission shall establish qualifications, duties, and priorities for the chief public defender, deputy and assistant public defenders, and the appellate defender and deputy and assistant appellate defenders.

(11) The commission shall develop policies and procedures for identifying and addressing conflicts of interest and claims of ineffective assistance of counsel.

~~(9)~~(12) The commission shall propose to the supreme court develop minimum standards to which all for trial and appellate public defenders. The commission shall submit the standards to the supreme court for the court's review and consideration. All trial and appellate public defenders, including locally appointed private counsel, shall conform to public defender standards adopted by the supreme court.

~~(10)~~(13) The commission shall compile and keep current a statewide roster of attorneys eligible for appointment by an appropriate court as trial and appellate defense counsel for indigent defendants. The roster must be supplied to all justices and judges in the state.

~~(11)~~ The commission shall establish qualifications, duties, and priorities for the appellate defender, provided for in 46-8-211, not inconsistent with those established in 46-8-212."

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8. Page 5, line 30.

Following: "of the"

Insert: "statewide"

Following: the first "trial"

Insert: "and appellate"

Following: "system"

Strike: "and the appellate defender program"

9. Page 6, line 17.

Following: "trial"

Insert: "or appellate"

10. Page 7, line 3.

Following: "functions"

Insert: "-- administrative director"

11. Page 7, line 7 through line 8.

Following: "position" on line 7

Strike: remainder of line 7 through "30,000" on line 8

Insert: "must be established by the commission and must be commensurate with the duties and responsibilities of the position"

12. Page 7, line 10.

Strike: "9(2)"

Insert: "11(2)"

13. Page 7, line 11.

Following: line 10

Insert: "(b) provide administrative assistance to the commission;"

14. Page 7, line 11.

Strike: "(b)"

Insert: "(c)"

Following: "commission"

Insert: ", including an administrative director"

15. Page 7, line 12.

Strike: "(c)"

Insert: "(d)"

16. Page 7, line 13.

Strike: "(d)"

Insert: "(e)"

Following: "operation"

Insert: "and administration"

Following: "trial"

Insert: "and appellate"

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17. Page 7, line 13 through line 14.

Following: "system" on line 13

Strike: remainder of line 13 through "state" on line 14

18. Page 7, line 15 through line 17.

Strike: subsection (e) in its entirety

19. Page 7, line 18.

Following: "trial"

Insert: "and appellate"

20. Page 7, line 21.

Following: "Montana"

Insert: "at both the trial and appellate level"

21. Page 7, line 23.

Following: "trial"

Insert: "or appellate"

Following: ";

Strike: "and"

22. Page 7, line 24.

Following: "commission"

Insert: "; and

(j) provide a report to the legislature, as provided in 5-11-210, regarding the operation and administration of the statewide criminal trial and appellate public defender system. A copy of the report must be provided to the commission"

23. Page 7, line 25.

Following: line 24

Insert: "(4) The administrative director, with the chief public defender's recommendations, shall prepare and present budget requests for the statewide criminal trial and appellate public defender system to the legislature. Budget requests for the system must be included in the budget for the department of administration and must be included in the budget submitted by the governor under 17-7-122."

Renumber: subsequent subsection

24. Page 8, line 3.

Following: "defenders"

Strike: "and any"

Insert: ";

Following: "defenders"

Insert: ";

25. Page 8, line 7.

Following: "trial"

Insert: "or appellate"

26. Page 8, line 16.

Following: line 15

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Insert: "Section 9. Section 46-8-210, MCA, is amended to read:

"**46-8-210. Short title.** Sections 46-8-210 through 46-8-212, and 46-8-213 may be cited as the "Appellate Defender Act"."

Insert: "Section 10. Section 46-8-212, MCA, is amended to read:

"**46-8-212. Appellate defender -- qualifications -- duties.** (1) The appellate defender and any deputy or assistant appellate defender:

(a) must be an attorney licensed to practice law in this state;

(b) shall perform duties as may be provided by law or established by the ~~appellate public~~ defender commission; and

(c) must have those qualifications otherwise required by the commission.

(2) The duties of the appellate defender are to:

(a) assume responsibility for appeals from district court and petitions for postconviction relief from proceedings in district court on behalf of indigent defendants only after conviction, as defined by 46-1-202, when:

(i) the defendant alleges that ineffective assistance of counsel resulted in conviction;

(ii) a district judge or the chief justice or an associate justice of the supreme court finds further representation by previously appointed counsel would not serve the interests of justice; or

(iii) the appellate defender agrees to assist in or assume responsibility for appeal;

(b) aid the commission in compiling and keeping current a statewide roster of attorneys eligible for appointment by an appropriate court as trial and appellate defense counsel for the indigent;

(c) keep a record of those services and expenses for the commission; and

(d) perform the duties otherwise established by the commission."

Renumber: subsequent sections

27. Page 9, line 4.

Following: "trial"

Insert: "or appellate"

28. Page 9, line 9 through line 16.

Strike: section 10 in its entirety

Insert: "NEW SECTION. Section 12. District court assumption and indigent defense contingent expense account. There is a district court assumption and indigent defense contingent expense account in the state special revenue fund. The supreme court administrator and the department of administration may apply to the director of the office of budget and program planning for money in the account. The supreme court administrator and the department of administration shall supply the budget director with the information requested by the budget director to determine if the request is justified."

Renumber: subsequent sections

29. Page 9, line 19 through line 20.

Following: "June 30," on line 19

Strike: "2004, and who are"

Insert: "2003, may be"

30. Page 9, line 20.

Following: "[this act]"

Insert: ". Transferred employees"

31. Page 9, line 21.

Following: "[this act]"

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Insert: "must be the same as on July 1, 2003, provided that any increase after July 1, 2002, did not exceed 4%, and"

32. Page 10, line 2.

Following: "time."

Insert: "On July 1, 2004, the counties with public defender employees who are transferred to state employment by [this act] shall pay the state 25% of the sick leave accrual and 100% of vacation leave accrual for each employee who is transferred to state employment. The transferred employees shall retain their accumulated sick and vacation leave."

33. Page 10, line 11.

Following: line 10

Insert: "(6) The county or consolidated city-county government shall provide office space for trial and appellate public defenders until July 1, 2005."

34. Page 10, line 14.

Following: "county"

Insert: "unless otherwise agreed upon by the county and the state"

35. Page 11, line 7.

Insert: "NEW SECTION. Section 16. Fund transfer. The amount of \$1,917,218 is transferred from the general fund to the district court assumption and indigent defense contingent expense account established in [section 12]."

Insert: "NEW SECTION. Section 17. Interim report. During the biennium beginning July 1, 2003, the chief public defender shall make quarterly reports regarding the operation and administration of the public defender system to the commission, the governor, the legislative finance committee, the law and justice interim committee of the legislature, and the supreme court."

Insert: "NEW SECTION. Section 18. User surcharge for district court assumption and indigent defense. (1) Except as provided in subsection (2), all courts of original jurisdiction shall impose:

(a) on a defendant in criminal cases, a \$1 user surcharge upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail;

(b) on the initiating party in civil and probate cases, a \$1 user surcharge at the commencement of each action, proceeding, or filing; and

(c) on each defendant or respondent in civil cases, a \$1 user surcharge upon appearance.

(2) If a court determines that a defendant in a criminal case or determines pursuant to 25-10-404 that a party in a civil case is unable to pay the surcharge, the court may waive payment of the surcharge imposed by this section.

(3) The surcharge imposed by this section is not a fee or fine and must be imposed in addition to other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of any court.

(4) The amounts collected under this section must be forwarded to the department of revenue for deposit in the district court assumption and indigent defense contingent expense account established in [section 12]."

Insert: "NEW SECTION. Section 19. Effect on litigation. [This act] may not be construed as effecting any liability against a county that may result from current litigation against counties concerning the level of funding for public defenders and indigent defense."

Insert: "NEW SECTION. Section 20. Repealer. Section 46-8-211, MCA, is repealed."

Renumber: subsequent sections

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36. Page 11, line 8 through line 10.
Following: "instruction." on line 8
Strike: subsection (1) in its entirety
Renumber: subsequent subsections

37. Page 11, line 11.
Strike: "[Section 4] is"
Insert: "[Sections 4 and 12] are"

38. Page 11, line 12.
Strike: "[section 4]"
Insert: "[sections 4 and 12]"

39. Page 11, line 13.
Strike: "9"
Insert: "11"

40. Page 11, line 14.
Strike: "9"
Insert: "11"

41. Page 11, line 21.
Strike: "and 10"
Insert: ", 2, 7, 9 through 12, and 16 through 22"

And, as amended, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 47**
Report No. 1, March 27, 2003

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 47** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

1. Senate Committee on Local Government amendments to the first reading copy, dated January 22, 2003.

And, recommend that **Senate Bill 47** (reference copy -- salmon) be amended as follows:

1. Page 3, line 5.
Strike: "\$8,000"
Insert: "\$25,000"

For the Senate:

Gebhardt, Chairman

For the House:

Mendenhall, Chairman

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Esp
Wheat

Cyr
Morgan

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

3/28/2003

SB 105, introduced by Johnson

SB 113, introduced by Esp

House bills passed and transmitted to the Senate for concurrence:

3/28/2003

HB 5, introduced by Kasten

HB 9, introduced by Kasten

HB 13, introduced by Lewis

HB 360, introduced by Lewis, requiring adoption by an affirmative roll call vote of three-fourths of each house was transmitted to the Senate with the following vote:

3/28/2003

Yeas - 96

Nays - 2

ANNOUNCEMENTS

Senator Tropila announced that although the House had beaten the Senate in the Senate/House basketball game, the Senate pages saved the reputation of the Senate as they had soundly beaten the House pages in games of laser tag and bowling, thereby proving that what "rocks the House", is definitely the Senate.

Committee meetings were announced by committee chairmen.

MOTIONS

HB 197 - Senator Shea moved she be allowed to change her vote on **HB 197**, third reading this day, from nay to yea. Motion carried.

HB 437 - Senator Squires moved she be allowed to change her vote on **HB 437**, third reading this day, from nay to yea. Motion carried.

Majority Leader Thomas moved the Senate stand in recess until the hour of 4:00 p.m. this day. Motion carried.

Senate recessed at 2:55 p.m.

Senate reconvened at 4:08 p.m.

Roll call. All members present. Quorum present.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 267 - Senator Stapleton moved **SB 267**, second reading copy, be amended as follows:

1. Title, line 11.

Following: "TEACHING;"

Strike: "IMPOSING A \$10 APPLICATION FEE."

2. Title, line 12 and line 13.

Following: "FROM" on line 12

Strike: remainder of line 12 through "ACCOUNT" on line 13

Insert: "THE GENERAL FUND MADE AVAILABLE THROUGH THE UTILIZATION OF EXCESS GUARANTEE
ACCOUNT FUNDS"

3. Title, line 15.

Strike: "20-9-342"

Insert: "20-9-622"

4. Page 3, line 5 through line 6.

Following: "days" on line 5

Strike: remainder of line 5 through "FEE" on line 6

5. Page 3, line 16.

Strike: "(A)"

6. Page 3, line 19.

Strike: "(I)"

Insert: "(a)"

7. Page 3, line 20.

Strike: "(II)"

Insert: "(b)"

8. Page 3, line 22 through line 23.

Strike: line 22 through line 23 in their entirety

9. Page 3, line 24 through line 25.

Following: "shall" on line 24

Strike: remainder of line 24 through line 25 in its entirety

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10. Page 4, line 11 through line 12.

Following: "~~(12)~~" on line 11

Strike: remainder of line 11 through "~~[SECTION 2]~~" on line 12

Insert: "Funding for teacher signing bonuses in each year is limited to the amount by which the general fund obligation for school equalization aid is reduced through the mechanism in [section 3] for that year"

11. Page 4, line 29 through page 5, line 1.

Strike: section 2 in its entirety

Renumber: subsequent sections

12. Page 12, line 24 through page 13, line 3.

Strike: section 4 in its entirety

Insert: "**Section 3.** Section 20-9-622, MCA, is amended to read:

"20-9-622. Guarantee account. (1) There is a guarantee account in a subfund of the state special revenue fund.

The guarantee account is intended to:

(a) stabilize the long-term growth of the permanent fund; and

(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in subsections (2) and (3), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall annually transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is outstanding in the prior year.

(3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533.

(4) (a) Any revenue available for BASE aid in the guarantee account in excess of \$50,432,513 in fiscal year 2003, up to \$2.5 million, must be used to reduce the fiscal year 2004 general fund obligations for school equalization aid by a like amount.

(b) Any revenue available for BASE aid in the guarantee account in excess of \$45,499,713 in fiscal year 2004, up to \$4 million, must be used to reduce the fiscal year 2005 general fund obligations for school equalization aid by a like amount.

(c) Any revenue available for BASE aid in the guarantee account in excess of \$45,485,803 in fiscal year 2005, up to \$5 million, must be used to reduce the fiscal year 2006 general fund obligations for school equalization aid by a like amount.

(d) Any revenue available for BASE aid in the guarantee account in fiscal year 2006 in excess of the amount indicated in the general appropriations act for that year, up to \$5 million, must be used to reduce the fiscal year 2007 general fund obligations for school equalization aid by a like amount.

(e) The general fund money made available pursuant to subsections (4)(a), (4)(b), (4)(c), and (4)(d) for the purposes of [section 1] is appropriated in the general appropriations act."

Renumber: subsequent sections

13. Page 13, line 5.

Following: "is"

Strike: "~~[SECTIONS 1 AND 2] ARE~~"

Insert: "[Section 1] is"

14. Page 13, line 7.

Strike: "~~[SECTIONS 1 AND 2]~~"

Insert: "[section 1]"

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Amendment **adopted** unanimously.

SB 267 - Senator Stapleton moved **SB 267**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 424 - Senator Nelson moved **SB 424** do pass. Motion carried unanimously.

SB 451 - Senator Esp moved **SB 451** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 38

Nays: Cooney, Elliott, Hansen, Harrington, Johnson, Mahlum, Nelson, Ryan, Schmidt, Stonington, Tester, Toole.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 323 - Senator Glaser moved **SB 323**, second reading copy, be amended as follows:

1. Title, line 6.

Following: "ENTITLEMENTS:"

Insert: "PROVIDING FOR ANNUAL INFLATION-RELATED ADJUSTMENTS TO THE BASE FUNDING PROGRAM AMOUNTS FOR SCHOOL DISTRICT BASIC ENTITLEMENTS AND PER-ANB ENTITLEMENTS;"

2. Page 1.

Following: line 29

Insert: "NEW SECTION. Section 1. Annual inflation-related adjustments to basic entitlement and per-ANB entitlements. (1) Beginning in 2006, the superintendent of public instruction shall by October 1 of each even-numbered

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year calculate the inflation factors for the ensuing biennium as follows:

(a) for the first fiscal year of the ensuing biennium, divide the consumer price index for July of the prior calendar year by the consumer price index for July of the year prior to the prior calendar year; and

(b) for the second fiscal year of the ensuing biennium, divide the consumer price index for July of the current calendar year by the consumer price index for July of the prior calendar year.

(2) For the purposes of this section, "consumer price index" means the consumer price index, U.S. city average, all urban consumers, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor."

Renumber: subsequent sections

3. Page 11.

Following: line 18

Insert: "NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [section 1]."

Renumber: subsequent sections

4. Page 11, line 20.

Following: "applicability."

Insert: "(1) [Section 1] is effective July 1, 2005."

Strike: "1"

Insert: "2"

Renumber: subsequent subsections

5. Page 11, line 22.

Strike: "2"

Insert: "3"

6. Page 11, line 24.

Strike: "3, 4, and 6"

Insert: "4 through 6 and 8"

7. Page 11, line 27.

Strike: "1"

Insert: "2"

Amendment **adopted** unanimously.

SB 323 - Senator Mangan moved **SB 323**, second reading copy, be further amended as follows:

1. Title, line 8 through line 10.

Strike: "CHANGING" on line 8 through "INSURANCE;" on line 10

2. Title, line 13.

Strike: "SECTIONS"

Insert: "SECTION"

Following: ";

Insert: ","

Strike: "AND 20-9-501,"

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3. Page 5, line 25 through page 8, line 14.

Strike: section 3 in its entirety

Renumber: subsequent sections

4. Page 11, line 24.

Strike: "3, 4, AND 6"

Insert: "3 and 5"

Amendment **not adopted** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 323 - Senator Mangan moved **SB 323**, second reading copy, be further amended as follows:

1. Title, line 12.

Strike: "TERMINATING" through "GRANTS;"

2. Title, line 13 through line 14.

Following: "MCA" on line 13

Strike: remainder of line 13 through "2002" on line 14

3. Page 9, line 6 through page 11, line 12.

Strike: section 4 in its entirety

Renumber: subsequent sections

4. Page 11, line 24.

Strike: "3, 4, and 6"

Insert: "3 and 5"

Amendment **not adopted** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

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Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 323 - Senator Esp moved **SB 323**, second reading copy, be further amended as follows:

1. Title, line 8.

Following: "YEARS;"

Insert: "PROVIDING AN ALTERNATIVE WAY TO CALCULATE ANB TO MINIMIZE THE EFFECT OF DECLINING ENROLLMENT;"

2. Page 3, line 11.

Following: "calculations"

Insert: ", using the greater of the current year ANB or 92% of the prior year ANB"

3. Page 5, line 8.

Following: "calculations"

Insert: ", using the greater of the current year ANB or 92% of the prior year ANB"

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 37

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Hansen, Harrington, Johnson, McCarthy, Schmidt, Shea, Squires, Toole.

Total 12

Absent or not voting: None.

Total 0

Excused: Kitzenberg.

Total 1

SB 323 - Senator Grimes moved **SB 323**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 24

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 454 - Senator Story moved **SB 454** do pass. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

TAXATION (DePratu, Chairman):

3/28/2003

SB 255, introduced bill, be amended as follows:

1. Title, page 1, lines 6 and 7.

Following: line 5

Insert: "LEGISLATURE TO LIMIT INCREASES IN THE"

Strike: "TO" on line 6 through "LIMITING" on line 7

Insert: "; ALLOWING THE LIMITATION OF"

Strike: "TO 2 PERCENT" on line 7

Insert: "TO BE EITHER A FIXED PERCENTAGE"

2. Page 1, line 7 through line 11.

Strike: ", WHICHEVER" on line 7 through second "DECREASE" on line 11

3. Page 1, line 17 through line 29.

Strike: "Equalization" on line 17 through the first "the" on line 28

Insert: "The"

Strike: "provide" on line 28 through "section" on line 29

Insert: "limit increases in taxable market value or taxable value of property to the rate of inflation or by a fixed percentage"

4. Page 2, line 7 through line 8.

Strike: "acquisition" on line 7

Insert: "the legislature to limit increases in"

Strike: "valuations" on line 7 through "protection" on line 8

Insert: "purposes to the rate of inflation or a fixed percentage"

5. Page 2, line 9 through line 10.

Strike: "acquisition" on line 9

Insert: "the legislature to limit increases in"

Strike: "valuations" on line 9 through "protection" on line 10

Insert: "purposes to the rate of inflation or a fixed percentage"

And, as amended, do pass. Report adopted.

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SB 260, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 6.

Strike: "ACQUISITION VALUATION OF" on line 5

Insert: "A HOMESTEAD-QUALIFIED EXEMPTION FOR"

Strike: "UPON" on line 5 through "PURPOSES" on line 6

2. Title, page 1, line 7 through line 16

Following: "IN" on line 7

Insert: "TAXABLE MARKET"

Strike: "FROM" on line 7 through the second "REAPPRAISAL" on line 16

Insert: "OF TAX RATE ADJUSTMENTS TO MITIGATE THE EFFECTS OF THE PERIODIC PROPERTY TAX REAPPRAISAL CYCLE THAT BEGINS IN 2003; PROVIDING AN EXTENSION OF DEADLINES RELATING TO PROPERTY TAXATION"

3. Title, page 1, line 17.

Following: "15-6-138,"

Insert: "15-6-143,"

Strike: "15-6-216, 15-7-102, 15-7-103,"

Strike: "15-7-112,"

4. Title, page 1, line 18 through line 19.

Strike: "15-7-113" through "15-7-201," on line 18

Insert: "AND"

Strike: "AND 77-1-208," on line 18

Following: "MCA;" on line 18

Insert: "PROVIDING A CONTINGENT VOIDNESS PROVISION;"

Strike: "EFFECTIVE" on line 18 through "PROVISION" on line 19

Insert: "A CONTINGENT DELAYED EFFECTIVE DATE"

5. Page 1, line 23 through page 32, line 27.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Homestead -- qualification. (1) "Homestead", for the purposes of property taxation, means the owner-occupied dwelling used as the primary dwelling place of the owner. The primary dwelling place is the single place where an individual has a fixed and permanent home and principal establishment and to which whenever the individual is absent the individual has the intention of returning. The homestead may be occupied by any members of the owner's household as their home. The homestead includes appurtenant or adjacent land not exceeding 5 contiguous acres owned or being purchased under contract for deed by the owner or a member or the owner's family.

(2) (a) To be qualified as a homestead, the property must have been owned by the applicant for at least 1 year. The property must have been the owner's primary dwelling place on January 1 of the year for which the application is made and for at least 7 months during the prior year.

(b) A primary dwelling that qualified as a homestead in the prior year continues to qualify as a homestead if the applicant resides in a health care facility and the applicant does not rent or lease the dwelling to others for more than 21 days a year.

(3) The owner of a homestead and other residential dwellings may elect to have the homestead qualification apply to the homestead or any one of the other residential dwellings. The homestead designation may not apply to a dwelling that the owner rents or leases to others for more than 21 days a year.

(4) (a) For the purposes of this section, a person is considered an owner if the person:

(i) is the grantor, or the person's spouse is the grantor, of a revocable or irrevocable trust owning the property

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and is named as a beneficiary of the trust; or

(ii) is a partner of a limited partnership, a member of a limited liability company, or a shareholder of a corporation owning the property and the person holds at least a 5% ownership in the limited partnership, limited liability company, or corporation.

(b) A person claiming ownership under subsection (4)(a) shall provide the department with an affidavit setting forth the reasons the person should be considered the owner of the property, and attached to the affidavit must be copies of the appropriate trust or business entity documents indicating the legal basis person's ownership interest.

(5) (a) An owner shall apply for certification of homestead status to the department not later than a date set by the department by rule. On the application, supplied by the department, the owner shall certify that the owner is making an application for homestead certification under this section, that the dwelling is the owner's homestead, determined pursuant to in subsections (1) and (2), and that the owner has not made any other application for the exemption on any other residential property.

(b) A homestead qualification remains in effect as long as the homestead property meets the requirements of subsections (1) and (2).

(c) A homestead exemption expires when the property changes ownership, and the exemption is that percentage specified in [section 2(1)(a)(i)] until the new owner has qualified for the homestead exemption.

(6) (a) The following transactions do not constitute a change in ownership for the purposes of retaining a homestead exemption:

(i) an interspousal transfer, whether done directly or indirectly through business entities or fiduciaries, including transfers involving a deceased spouse or a former spouse due to dissolution of marriage under supervision of a court; or

(ii) the transfer, by a parent to a child or by a grandparent to a grandchild, of the homestead property.

(b) For the purposes of subsection (6)(a)(ii), the following definitions apply:

(i) "Child" means:

(A) a child born of the parent except a child who has been adopted by another person as provided in subsection (6)(b)(i)(D);

(B) a stepchild of the parent and the spouse of that stepchild while the relationship of stepparent and stepchild exists. The relationship of stepparent and stepchild is considered to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) a son-in-law or daughter-in-law of the parent. The relationship of parent and son-in-law or daughter-in-law is considered to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) a child adopted by the parent pursuant to statute, other than an individual adopted after reaching 18 years of age.

(ii) "Grandchild" means a child of the child of the grandparent.

(7) There is no change of ownership if subsequent to the change or transfer the same person is the owner of the homestead property and:

(a) the transfer of title is to correct an error; or

(b) the transfer is between legal and equitable title, including transactions involving contracts for deed."

Insert: "NEW SECTION. Section 2. Percentage of class four property exempt from taxation. (1) The following percentage of the market value of the following described property is exempt from taxation:

(a) for residential property that is qualified as a homestead as defined in [section 1], the exemption, which is necessary to mitigate the unpredictability of cyclical reappraisals in the interest of neighborhood preservation, continuity, and stability, is the greater of:

(i) 31%;

(ii) $(1 - (\text{prior year's taxable market value times } 1.04 \text{ divided by the current year's phase-in value})) \text{ times } 100$;

or

(iii) $(1 - (\text{prior year's taxable market value times } (1 + \text{CPI-U}) \text{ divided by the current year's phase-in value})) \text{ times } 100$, where CPI-U is the percent change in the consumer price index for all urban consumers, U.S. city average all

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items, using the 1993 base of 100 or successor reports for the preceding calendar year as initially reported by the United States department of labor, bureau of labor statistics;

(b) for residential property as described in 15-6-134(1)(e) and (1)(f) that is not qualified as a homestead and for rental multifamily dwelling units of two or more units described in 15-6-134(1)(f)(ii), the exemption is that specified in subsection (1)(a)(i);

(c) for commercial and industrial property as described in 15-6-134(1)(g), the exemption is 13%.

(2) For the formulas in subsections (1)(a)(ii) and (1)(a)(iii), the prior year's taxable market value must be adjusted if changes in state law affect the way taxable market value is determined. The prior year's taxable market value for use with the formula must be computed using the same state law used in determining current year taxable market value."

Insert: "Section 3. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) subject to 15-6-201(1)(z) ~~and (1)(aa)~~ and subsections (1)(f) and (1)(g) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-201(1)(z) ~~and (1)(aa)~~ and subsections (1)(f) and (1)(g) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (1)(c), net business income is gross income less ordinary operating expenses ~~but before deducting depreciation or depletion allowance, or both.~~

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(e) subject to 15-6-201(1)(z), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

(g) (i) commercial buildings and the parcels of land upon which they are situated; and

(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) ~~(i) Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, and subsection (2)(a)(ii) of this section,~~ property described in subsections (1)(a), (1)(b), (1)(e), (1)(f), and (1)(g) of this section is taxed at:

~~(i) 3.794%~~ 3.41% of its taxable market value in tax year ~~1999~~ 2003;

~~(ii) 3.34%~~ 3.34% of its taxable market value in tax year 2004;

~~(iii) 3.26%~~ 3.26% of its taxable market value in tax year 2005;

~~(iv) 3.18%~~ 3.18% of its taxable market value in tax year 2006;

~~(v) 3.10%~~ 3.10% of its taxable market value in tax year 2007; and

~~(vi) 3.02%~~ 3.02% of its taxable market value in tax years after 2007.

~~(ii) The taxable percentage rate in subsection (2)(a)(i) must be adjusted downward by subtracting 0.0835 percentage points each year until the tax rate is equal to or less than 3.46%.~~

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate

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provided in subsection (2)(a)(iii) of its taxable market value multiplied by a percentage figure based on income and determined from the following table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier
Head of Household		
\$0 - \$ 6,000	\$0 - \$8,000	20%
6,001 - 9,200	8,001 - 14,000	50%
9,201 - 15,000	14,001 - 20,000	70%

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a)(i).

(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

Insert: "Section 4. Section 15-6-138, MCA, is amended to read:

"15-6-138. (Temporary) Class eight property -- description -- taxable percentage. (1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-201~~(1)(bb)~~(1)(aa);

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as providers as provided in 15-6-201, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(f) special mobile equipment as defined in 61-1-104;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

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(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 3% of its market value.

(5) (a) If, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income, in the last full year for which data is available, is at least 2.85% from the prior year, then the tax rate for class eight property will be reduced by 1% each year until the tax rate reaches zero.

(b) The department shall calculate the percentage growth in subsection (5)(a) by using the formula $(W/CPI) - 1$, where:

(i) W is the Montana wage and salary income for the most current available year divided by the Montana wage and salary income for the year prior to the most current available year; and

(ii) CPI is the consumer price index for the most current available year used in subsection (5)(b)(i) divided by the consumer price index for the year prior to the most current available year as used in subsection (5)(b)(i).

(c) For purposes of determining the percentage growth in subsection (5)(a), the department shall use the wage and salary data series referred to as the bureau of economic analysis of the United States department of commerce Montana wage and salary disbursements. Inflation must be measured by the consumer price index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from taxation. (Repealed on occurrence of contingency--secs. 27(2), 31(4), Ch. 285, L. 1999.)"

Insert: "Section 5. Section 15-6-143, MCA, is amended to read:

"15-6-143. Class ten property -- description -- taxable percentage. (1) Class ten property includes all forest lands as defined in 15-44-102.

(2) Class ten property is taxed at ~~0.79%~~ 0.35% of its forest productivity value ~~in tax year 1999, and the rate is reduced by 0.11% each year until the property is taxed at 0.35% of its forest productivity value.~~"

Insert: "Section 6. Section 15-6-201, MCA, is amended to read:

"15-6-201. (Temporary) Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that is:

(i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

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- (iii) not maintained and operated for private or corporate profit;
- (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;
- (f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;
- (g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;
- (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;
- (i) truck canopy covers or toppers and campers;
- (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- (k) motor homes;
- (l) all watercraft;
- (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;
- (n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;
- (o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and
- (ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;
- (p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;
- (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.
- (r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:
 - (A) construct, repair, and maintain improvements to real property; or
 - (B) repair and maintain machinery, equipment, appliances, or other personal property;
- (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;
- (s) harness, saddlery, and other tack equipment;
- (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;
- (u) timber as defined in 15-44-102;
- (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;
- (w) all vehicles registered under 61-3-456;
- (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and
- (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

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- (y) motorcycles and quadricycles;
- (z) the following percentage of the market value of ~~residential~~ class four property as described in 15-6-134~~(1)(e)~~ and (1)(f) as determined under [section 2]:
 - ~~(i) 23% for tax year 2000;~~
 - ~~(ii) 27.5% for tax year 2001; and~~
 - ~~(iii) 31% for tax year 2002 and succeeding tax years;~~
 - ~~(aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):~~
 - ~~(i) 9% for tax year 2000; and~~
 - ~~(ii) 11% for tax year 2001; and~~
 - ~~(iii) 13% for tax year 2002 and succeeding tax years;~~
 - ~~(bb)~~ (aa) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;
 - ~~(cc)~~ (bb) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:
 - (i) the acquired cost of the personal property is less than \$15,000;
 - (ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and
 - (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
 - ~~(dd)~~ (cc) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility; and
 - ~~(ee)~~ (dd) light vehicles as defined in 61-1-139.
- (2) (a) For the purposes of subsection (1)(e):
 - (i) the term "institutions of purely public charity" includes any organization that meets the following requirements:
 - (A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.
 - (B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.
 - (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.
- (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:
 - (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
 - (ii) held for future display; or
 - (iii) used to house or store a public display.
- (3) For the purposes of subsection ~~(1)(bb)~~ (1)(aa):
 - (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the

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dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

15-6-201. (Effective on occurrence of contingency) Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that is:

(i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and operated for private or corporate profit;

(e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) truck canopy covers or toppers and campers;

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

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(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) the following percentage of the market value of residential class four property as described in 15-6-134(1)(e) and (1)(f) as determined under [section 2]:

~~(i) 23% for tax year 2000;~~

~~_____ (ii) 27.5% for tax year 2001; and~~

~~_____ (iii) 31% for tax year 2002 and succeeding tax years;~~

~~_____ (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):~~

~~_____ (i) 9% for tax year 2000; and~~

~~_____ (ii) 11% for tax year 2001; and~~

~~_____ (iii) 13% for tax year 2002 and succeeding tax years;~~

~~(bb)~~(aa) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

~~(cc)~~(bb) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than \$15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of

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personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

- (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
- ~~(dd)~~(cc) all agricultural implements and equipment;
- ~~(ee)~~(dd) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;
- ~~(ff)~~(ee) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;
- ~~(gg)~~(ff) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;
- ~~(hh)~~(gg) special mobile equipment as defined in 61-1-104;
- ~~(ii)~~(hh) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;
- ~~(jj)~~(ii) x-ray and medical and dental equipment;
- ~~(kk)~~(jj) citizens' band radios and mobile telephones;
- ~~(ll)~~(kk) radio and television broadcasting and transmitting equipment;
- ~~(mm)~~(ll) cable television systems;
- ~~(nn)~~(mm) coal and ore haulers;
- ~~(oo)~~(nn) theater projectors and sound equipment; and
- ~~(pp)~~(oo) light vehicles as defined in 61-1-139.

(2) (a) For the purposes of subsection (1)(e):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or
- (iii) used to house or store a public display.

(3) For the purposes of subsection ~~(1)(bb)~~ (1)(aa):

(a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

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(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

- (a) \$20,000 in the case of a single-family residential dwelling;
- (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Insert: "Section 7. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic revaluation of certain taxable property. (1) The department shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. All other property must be revalued annually. ~~The revaluation of class three, four, and ten property is complete on December 31, 1996. The amount of the change in valuation from the 1996 base year for each property in classes three, four, and ten must be phased in each year at the rate of 25% of the change in valuation from December 31, 1998, to the appropriate percentage of taxable market value for each class.~~

(2) The department shall value and phase in the value of newly constructed, remodeled, or reclassified property in a manner consistent with the valuation within the same class and the values established pursuant to subsection (1). The department shall adopt rules for determining the assessed valuation and phased-in value of new, remodeled, or reclassified property within the same class.

(3) ~~Beginning January 1, 2001, the~~ The department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county is revalued by January 1, 2003, and each succeeding 6 years. The resulting valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phase in for each year is 16.66%. ~~The department shall furnish a copy of the plan and all amendments to the plan to the board of county commissioners of each county."~~

Insert: "Section 8. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the capitalization of net income method as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

(d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the average wholesale value category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the department shall use a comparable publication or wholesale value category.

(b) for agricultural implements and machinery not listed in an official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide; and

(c) as otherwise authorized in Titles 15 and 61.

(4) For purposes of taxation, assessed value is the same as appraised value.

(5) The taxable value for all property is the percentage of market or assessed value established for each class

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of property.

(6) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value minus any portion of market value that is exempt from taxation under 15-6-201(1)(z) ~~and (1)(aa)~~.

(e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

(7) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.""

Insert: "NEW SECTION. Section 9. Extension of 2003 deadlines relating to property taxation. As a result of the change in the phase in of reappraisal for class three, four, and ten property and the requirement to determine owner-occupied property for the purpose of determining eligibility for the homestead exemption enacted by the 58th legislature, it may not be possible to comply with certain statutory deadlines relating to appraisals, assessments, reimbursements, budgets, and collection of property taxes. The state appraisal and assessment process may be delayed, which in turn may cause delays for the tax appeal boards and local government taxing jurisdiction budgeting and collection processes. Therefore, for tax year 2003, all deadlines are extended as necessary and reasonable, except that the time limits allowed for filing an appeal remain the same as provided by law in order to allow for the orderly and efficient assessment and collection of taxes."

"NEW SECTION. Section 10. Interim property tax reappraisal study. (1) There is an interim property tax reappraisal study committee created to study the effects of cyclical reappraisal and methods for mitigating the changes in taxable value caused by cyclical reappraisal.

(2) The committee is composed of four senators, two from each political party, appointed by the committee on committees, and four representatives, two appointed by the speaker and two appointed by the minority leader.

(3) The committee is attached for administrative purposes only to the department of revenue to be staffed by the executive branch with the cooperation of the staff of the legislative branch.

Insert: "NEW SECTION. Section 11. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [sections 1 and 2]."

Insert: "NEW SECTION. Section 12. Contingent voidness. (1) The amendments to [section 3(2) of this act], amending 15-6-134(2), are void if Senate Bill No. 461 or any other bill is passed and approved and amends the tax rates in 15-6-134 to mitigate the effects of property tax reappraisal.

(2) If Senate Bill No. 255 is not passed and approved, [this act] is void."

Insert: "NEW SECTION. Section 13. Effective date -- contingency. [This act] is effective on January 1, 2005, if Senate Bill No. 255 is approved by the electorate at the general election to be held in November 2004."

And, as amended, do pass. Report adopted.

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SB 461, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 7.

Strike: "PROVIDING" on line 5 through "DWELLINGS;" on line 7

2. Title, page 1, line 9 and line 10.

Strike: "CERTAIN" on line 9 through "HOMESTEADS" on line 10

Insert: "RESIDENCES"

3. Title, page 1, line 11 through line 12.

Following: "ESTABLISHING" on line 11

Strike: "A"

Strike: "SCHEDULE" on line 11 through "OTHER" on line 12

Insert: "RATES FOR"

Strike: ", RENTAL MULTIFAMILY DWELLINGS," on line 12

4. Title, page 1, line 15.

Strike: "15-6-138,"

Following: "15-6-201,"

Insert: "AND"

Strike: "AND 15-8-111,"

5. Page 1, line 20 through page 2, line 5.

Strike: section 1 in its entirety

Renumber: subsequent subsections

6. Page 2, line 9.

Strike: "homestead"

Strike: "property"

Insert: "dwellings and appurtenant land not to exceed 5 acres"

7. Page 2, line 10.

Strike: "occupied by households"

Insert: "with owners"

8. Page 3, line 11.

Following: "expenses."

Insert: "For single-family rental dwellings, the total household income is the owner's income."

9. Page 5, line 1 through page 6, line 3.

Strike: section 3 in its entirety

Renumber: subsequent sections

10. Page 6, line 7.

Following: "~~(1)(aa)~~"

Insert: "and (1)(aa)"

11. Page 6, line 9.

Following: "~~(1)(aa)~~"

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Insert: "and (1)(aa)"

12. Page 6, line 25 through line 26.

Strike: "that are not homestead residences"

13. Page 7, line 4.

Strike: "[section 3]."

14. Page 7, line 7.

Strike: "3.38%"

Insert: "3.40%"

15. Page 7, line 12.

Strike: "3%"

Insert: "3.01%"

16. Page 8, line 8 through page 9, line 28.

Strike: section 5 in its entirety

Renumber: subsequent sections

17. Page 12, line 18.

Following: "~~following~~"

Insert: "following"

Strike: "class four"

Insert: "residential"

18. Page 12, line 19.

Strike: "15-6-134"

Following: "~~(1)(f)~~"

Strike: "as provided in [section 3]."

Insert: "15-6-134(1)(e) and (1)(f):"

19. Page 12.

Following: line 26

Insert: "(i) 31% for tax year 2003;

(ii) 31.4% for tax year 2004;

(iii) 32% for tax year 2005;

(iv) 32.6% for tax year 2006;

(v) 33.2% for tax year 2007;

(vi) 34% for tax year 2008 and succeeding tax years;

(aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):

(i) 13% for tax year 2003;

(ii) 13.3% for tax year 2004;

(iii) 13.8% for tax year 2005;

(iv) 14.2% for tax year 2006;

(v) 14.6% for tax year 2007;

(vi) 15% for tax year 2008 and succeeding tax years;"

Renumber: subsequent subsections

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20. Page 14, line 4.

Strike: "(1)(aa)"

Insert: "(1)(bb)"

21. Page 17, line 4.

Following: "~~following~~"

Insert: "following"

Strike: "class four"

Insert: "residential"

22. Page 17, line 5.

Strike: "15-6-134"

Following: "~~(1)(f)~~"

Strike: "as provided in [section 3];"

Insert: "15-6-134(1)(e) and (1)(f)"

23. Page 17.

Following: line 12

Insert: "(i) 31% for tax year 2003;

(ii) 31.4% for tax year 2004;

(iii) 32% for tax year 2005;

(iv) 32.6% for tax year 2006;

(v) 33.2% for tax year 2007;

(vi) 34% for tax year 2008 and succeeding tax years;

(aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):

(i) 13% for tax year 2003;

(ii) 13.3% for tax year 2004;

(iii) 13.8% for tax year 2005;

(iv) 14.2% for tax year 2006;

(v) 14.6% for tax year 2007;

(vi) 15% for tax year 2008 and succeeding tax years;"

Renumber: subsequent subsections

24. Page 19, line 3.

Strike: "(1)(aa)"

Insert: "(1)(bb)"

25. Page 20, line 1.

Strike: "2003"

Insert: "2008, effective for January 1, 2009"

26. Page 20, line 7 through page 21, line 25.

Strike: section 8 in its entirety

Renumber: subsequent sections

27. Page 22, line 5.

Insert: "NEW SECTION. Section 6. Interim property tax reappraisal study. (1) There is an interim property tax reappraisal study committee created to study the effects of cyclical reappraisal and methods for mitigating the changes in taxable value caused by cyclical reappraisal.

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(2) The committee is composed of four senators, two from each political party, appointed by the committee on committees, and four representatives, two appointed by the speaker and two appointed by the minority leader.

(3) The committee is attached for administrative purposes only to the department of revenue to be staffed by the executive branch with the cooperation of the staff of the legislative branch."

Renumber: subsequent sections

28. Page 22, line 6 through line 8.

Strike: subsection (1) in its entirety

29. Page 22, line 9.

Strike: "(2)"

Strike: "2"

Insert: "1"

30. Page 22, line 10.

Strike: "2"

Insert: "1"

And, as amended, do pass. Report adopted.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, March 29, 2003. Motion carried.

Senate adjourned at 7:37 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
March 29, 2003

Senate Chambers
State Capitol

Senate convened at 8:07 a.m. President Keenan presiding. Invocation by Senator Bohlinger. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Bales, excused. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-sixth legislative day.

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Tash, Chairman): 3/29/2003
HB 223, be amended as follows:

1. Page 7, line 16.

Strike: "including"

Insert: "except"

2. Page 7, line 18.

Following: "."

Insert: "All earnings on the proceeds deposited in the state land bank fund are subject to the provisions of Article X, sections 5 and 10, of the Montana constitution."

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman): 3/28/2003
HB 494, be concurred in. Report adopted.
HB 501, be concurred in. Report adopted.

TAXATION (DePratu, Chairman): 3/29/2003
SB 155, be amended as follows:

1. Title, page 1, line 11.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TRANSITION PROVISION"

2. Page 2, line 19.

Following: "~~prior~~"

Insert: "year prior to the base year to the"

3. Page 2, line 20.

Strike: "to the target year"

4. Page 3, line 13.

Insert: "NEW SECTION. Section 2. Effective date -- transition. (1) [This act] is effective on passage and approval.

(2) The department of revenue shall perform the calculation in 15-16-138(5) for the tax year 2004 not later than [60 days after the effective date of this act]."

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And, as amended, do pass. Report adopted.

SB 407, be amended as follows:

1. Title, page 1, line 11.

Following: "DEDUCTION;"

Insert: "TEMPORARILY"

2. Title, page 1, line 12.

Strike: "70"

Insert: "60"

3. Title, page 1, line 18.

Following: "DATES"

Strike: "AND"

Insert: ", "

4. Title, page 1, line 19.

Following: "DATES"

Insert: ", AND A TERMINATION DATE"

5. Page 37, line 8.

Strike: "70"

Insert: "60"

6. Page 38, line 20.

Strike: "3.2%"

Insert: "3.7% "

7. Page 38, line 22.

Strike: "92.3%"

Insert: "21.9% "

8. Page 38, line 23.

Strike: "and"

9. Page 38, line 24.

Strike: "4.5%"

Insert: "5.2% "

10. Page 38, line 25.

Following: "17-7-205"

Insert: "; and

(4) 69.2% in the state special revenue fund to the credit of the department of public health and human services"

Renumber: subsequent section

11. Page 39, line 25.

Strike: "56"

Insert: "35"

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12. Page 40, line 14.

Following: "2003"

Insert: ", that exceeds the number of stamped cigarettes and cigarette tax insignia held in inventory by the cigarette wholesale dealer, retail dealer, or vending machine operator at the close of its most recently concluded income tax reporting year"

13. Page 41, line 5.

Strike: "42"

Insert: "41"

Strike: "2006"

Insert: "2004"

14. Page 41, line 16.

Insert: "NEW SECTION. Section 62. Termination.[Sections 49 through 54] terminate June 30, 2005. "

And, as amended, do pass. Report adopted.

SB 463, be amended as follows:

1. Page 1, line 15.

Strike: "that is publicly traded by"

Insert: "of"

2. Page 1, line 22.

Strike: ",'" "

Insert: ". For the purposes of this subsection (2)(a)(i), a corporation is considered to be headquartered in Montana if more than 50% of its corporate officers reside in the state."

3. Page 1, line 23.

Strike: "50% "

Insert: "35% "

Strike: "and"

4. Page 1, line 25.

Strike: "five"

Insert: "25"

Strike: "two"

Insert: "3"

5. Page 1, line 27.

Strike: "two"

6. Page 1, line 29.

Strike: "the other"

Insert: "another"

7. Page 2, line 1.

Strike: "the other"

Insert: "another"

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8. Page 2, line 2.

Following: "corporation"

Insert: "; and (iv) have had at least 25 full-time employees residing within the state at all times during the previous 3 years"

And, as amended, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 488, introduced by Harrington, Ellingson, Tester, Toole, referred to Taxation.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 6, introduced by Wheat, Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Keenan, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, D. Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, F. Thomas, Toole, Tropila, Zook, referred to State Administration.

The following House bills were introduced, read first time, and referred to committees:

HB 5, introduced by Kasten (by request of the Department of Administration and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 9, introduced by Kasten (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 13, introduced by Lewis (by request of the Department of Administration and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 360, introduced by Lewis, referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 462 - Senator DePratu moved **SB 462** do pass. Motion carried with Senator Toole voting nay.

Senator Thomas assumed the chair.

Senator Bales present at this time.

SB 465 - Senator Tester moved **SB 465** do pass. Motion carried as follows:

Yeas: Barkus, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Laible, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole,

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Tropila, Wheat.
Total 27

Nays: Anderson, Bales, Black, Bohlinger, Butcher, Curtiss, Esp, Glaser, Johnson, Kitzenberg, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 478 - Senator Story moved **SB 478** do pass. Motion carried with Senator Johnson voting nay.

Senator Story re-assumed the chair.

SB 480 - Senator Black moved **SB 480** do pass. Motion carried as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 41

Nays: Anderson, Barkus, Gebhardt, Laible, O'Neil, Sprague, Tropila.
Total 7

Absent or not voting: None.
Total 0

Excused: Cobb, Johnson.
Total 2

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Story moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 10:10 a.m. this day for purpose of party caucuses.

Senate recessed at 9:39 a.m.

Senate reconvened at 10:15 a.m.

Roll call. All members present except Senators Johnson and Stonington, excused. Quorum present.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 41 - Senator Grimes moved **HB 41** be concurred in. Motion carried with Senator McGee voting nay.

Senator Stonington present at this time.
Senator Stapleton excused at this time.

HB 67 - Senator Harrington moved **HB 67** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 31

Nays: Bales, Cromley, Curtiss, Esp, Gebhardt, Kitzenberg, Laible, Mahlum, McGee, Perry, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: Johnson, Stapleton.
Total 2

Senator Johnson present at this time.

HB 155 - Senator Wheat moved **HB 155** be concurred in. Motion carried unanimously.

Senator Stapleton present at this time.

Senator McCarthy expressed a conflict of interest with HB 160 because her son is the project manager for the ARCO cleanup program.

HB 160 - Senator Laible moved **HB 160** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

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Nays: Bales, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 218 - Senator Gebhardt moved **HB 218** be concurred in. Motion carried unanimously.

HB 224 - Senator O'Neil moved **HB 224** be concurred in. Motion carried unanimously.

HB 277 - Senator Esp moved **HB 277** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, Pease, Perry, Ryan, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 36

Nays: Butcher, Cooney, Cromley, Ellingson, Elliott, Johnson, McCarthy, O'Neil, Roush, Schmidt, Squires, Tester, Toole, Wheat.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 308 - Senator Perry moved **HB 308** be concurred in. Motion carried unanimously.

HB 388 - Senator Bales moved **HB 388** be concurred in. Motion carried unanimously.

HB 389 - Senator Wheat moved **HB 389** be concurred in. Motion carried unanimously.

SB 470 - Senator Cobb moved consideration of **SB 470** be placed at the bottom of the second reading board to obtain a current fiscal note. Motion **failed** as follows:

Yeas: Cobb, Cooney, Cromley, Elliott, Hansen, Harrington, Johnson, Laible, McCarthy, Nelson, O'Neil, Roush, Ryan, Schmidt, Stonington, Tester, Toole.
Total 17

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Mahlum, Mangan, McGee, McNutt, Pease, Perry, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 33

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SB 470 - Senator Cobb moved **SB 470**, second reading copy, be amended. After discussion, Senator Cobb withdrew his amendment at this time.

SB 470 - Senator Kitzenberg moved **SB 470**, second reading copy, be amended as follows:

1. Page 14, line 16.

Following: "~~114~~;"

Insert: "and"

2. Page 14, line 17.

Strike: "subsection (1)(d) in its entirety"

Renumber: subsequent subsections

3. Page 14, line 24.

Strike: ";

Insert: ". "

4. Page 14, lines 25 through 29.

Strike: subsections (1) (f) through ((1)(j) in their entirety

Renumber: subsequent subsections

5. Page 15, line 4.

Strike: subsection (2)(c) in its entirety

Renumber: subsequent subsections

6. Page 15, line 9.

Following: "assessed;"

Insert: "and"

7. Page 15, line 10 through line 11.

Strike: subsection (2)(e) in its entirety

Renumber: subsequent subsections

8. Page 15, line 18.

Following: "~~services~~;"

Insert: "telecommunications services,"

Strike: "AND"

Insert: "or"

9. Page 15, line 19.

Following: "~~not~~"

Insert: "not"

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10. Page 16, line 6 through line 8.

Strike: "~~MOTOR VEHICLES~~" on line 6

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

11. Page 17, line 11.

Strike: "~~EQUIPMENT~~"

12. Page 17, line 19.

Following: "and"

Insert: "and"

13. Page 17, line 20.

Strike: subsection (7) in its entirety

Renumber: subsequent subsection

14. Page 17, line 22.

Strike: "(7)"

Insert: "(6)"

15. Page 19, line 9.

Strike: "~~OR A SERVICE~~"

16. Page 19, line 10.

Following: "manufacturing"

Insert: "engaged in the business of mining or manufacturing"

17. Page 19, line 11.

Following: "and"

Insert: "and"

18. Page 19.

Following: line 16

Insert: "(b) (i) the purchaser incorporates the property as an ingredient or component part of the product in the business of mining or manufacturing; or

(ii) the purchaser uses the property to extract a mineral and the property is required to be abandoned in place, in accordance with state regulations, when production of the mineral from a mine or wellhead permanently ceases."

19. Page 19, line 17 through page 20, line 2.

Strike: page 19, line 17 through page 20, line 3 in their entirety

20. Page 20, line 4.

Strike: "(3)"

Insert: "(2)"

21. Page 39, line 8.

Following: "PAYMENT"

Insert: "and \$25 million each for university funding and teacher salary schedules"

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22. Page 39, line 21.

Strike: "AND"

Following: the second "CREDIT"

Insert: ", and \$25 million each for university funding and teacher salary schedules"

23. Page 40, line 5.

Strike: "AND"

Following: the second "CREDIT"

Insert: ", and \$50 million each for university funding and teacher salary schedules"

24. Page 51, line 23.

Insert: "NEW SECTION. Section 69. University system funding. There is allocated from the money collected from the sales tax and use tax to the state special revenue fund \$50 million of the sales tax and use tax, provided for in [section 61], for the support, maintenance, and improvement of the Montana university system, vocational-technical programs within the university system, and community college districts, subject to the board of regents' supervision."

Insert: "NEW SECTION. Section 70. Statewide certified teachers' and specialists' salaries. (1) Except as provided in subsection (3), effective for the school fiscal year beginning July 1, 2004, a school district shall, at a minimum, pay each teacher or specialist who is certified as class 1, class 2, class 4, or class 5 or pay each teacher or specialist identified by the superintendent of public instruction as being certified as class 6 or class 7, as follows:

Step	BA	BA+10	BA+20	BA+30	BA+40	BA+50	BA+60	BA+70	BA+80	BA+90
1	\$25,000	25,750	26,523	27,318	28,138	28,982	29,851	30,747	31,669	32,619
2	25,750	26,523	27,318	28,138	28,982	29,851	30,747	31,669	32,619	33,598
3	26,523	27,318	28,138	28,982	29,851	30,747	31,669	32,619	33,598	34,606
4		28,138	28,982	29,851	30,747	31,669	32,619	33,598	34,606	35,644
5		28,982	29,851	30,747	31,669	32,619	33,598	34,606	35,644	36,713
6			30,747	31,669	32,619	33,598	34,606	35,644	36,713	37,815
7			31,669	32,619	33,598	34,606	35,644	36,713	37,815	38,949
8				33,598	34,606	35,644	36,713	37,815	38,949	40,118
9				34,606	35,644	36,713	37,815	38,949	40,118	41,321
10					36,713	37,815	38,949	40,118	41,321	42,561
11					37,815	38,949	40,118	41,321	42,561	43,838
12						40,118	41,321	42,561	43,838	45,153
13						41,321	42,561	43,838	45,153	46,507
14							43,838	45,153	46,507	47,903
15							45,153	46,507	47,903	49,349

(2) Effective for school fiscal years beginning on or after July 1, 2004, a school district shall pay the base salary provided in subsection (1) or (3) multiplied by the rate of increase in the consumer price index for all urban consumers, published by the bureau of labor statistics of the U.S. department of labor, for the preceding December-to-December period.

(3) If a collective bargaining agreement establishes a higher base salary than the base established in subsection (1) or (2), the state shall pay the base salary established through collective bargaining.

(4) (a) In addition to the compensation provided for in subsection (1), (2), or (3), the state shall, for the school fiscal year beginning July 1, 2004, to the extent of allocated sales tax revenue, pay each certified teacher or specialist who has completed 20 years of credited service recognized by the Montana teachers' retirement system 5% of the employee's base salary.

(b) For the school fiscal year beginning July 1, 2004, in addition to the longevity allowance provided under subsection (4)(a), the state shall, to the extent of allocated sales tax revenue, pay each teacher or specialist who has completed 25 years of credited service recognized by the Montana teachers' retirement system an additional 3% of the employee's base salary.

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(5) In addition to the base salary provided in subsection (1), (2), or (3) and the longevity increases provided in subsection (4), the state shall pay to each qualified teacher or specialist a:

- (a) \$1,000 annual stipend to each teacher or specialist holding a master's or doctoral degree;
 - (b) \$2,000 annual stipend to each teacher or specialist for national certification during the term of certification;
 - (c) \$1,000 student-teacher advisership stipend each semester; and
 - (d) \$1,000 annual stipend plus 3 days of release time for a personal instruction committee assignment.
- (6) As used in this section, the following definitions apply:
- (a) "BA" means baccalaureate degree.
 - (b) "BA+" means the number of credits earned since receiving the BA.
 - (c) "Credits" means college semester hour credits and equivalent inservice credits. "

Renumber: subsequent sections

25. Page 137, line 29.

Strike: "69"

Insert: "71"

Strike: "74"

Insert: "76"

Strike: "79"

Insert: "81"

Amendment **failed** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Toole, Tropila.

Total 17

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.

Total 32

Absent or not voting: None.

Total 0

Excused: Tester.

Total 1

Senator Thomas assumed the chair.

SB 470 - Senator Mangan moved **SB 470** do pass. After discussion, Senator Cobb made a **substitute motion** that **SB 470**, second reading copy, be amended as follows:

1. Title, page 2, line 4.

Strike: "A CONTINGENT VOIDNESS PROVISION"

Insert: "THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA"

2. Page 137, line 6 through line 8.

Strike: section 107 in its entirety

Renumber: subsequent sections

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3. Page 138, line 3.

Insert: "NEW SECTION. Section 111. Submission to electorate. This act shall be submitted to the qualified electors of Montana at a special election to be held on October 7, 2003, by printing on the ballot the full title of this act and the following:

- ☐ FOR a statewide sales tax coordinated with decreases in property and income taxes.
- ☐ AGAINST a statewide sales tax coordinated with decreases in property and income taxes."

Amendment **adopted** as follows:

Yeas: Cobb, Cooney, DePratu, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, McCarthy, McGee, Nelson, O'Neil, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tester, Thomas, Toole, Tropila, Wheat.
Total 26

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cromley, Curtiss, Ellingson, Esp, Glaser, Johnson, Mahlum, Mangan, McNutt, Pease, Perry, Sprague, Story, Tash, Taylor, Zook, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 470 - Senator Mangan moved **SB 470**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, Pease, Roush, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Wheat, Zook, Mr. President.
Total 34

Nays: Butcher, Cooney, Elliott, Glaser, Grimes, Hansen, Harrington, McCarthy, O'Neil, Perry, Ryan, Schmidt, Shea, Squires, Toole, Tropila.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Story re-assumed the chair.

Committee of the Whole stood at ease.

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans, and thanked them for their work through the week.

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Committee of the Whole resumed.

HB 417 - Senator D. Ryan moved **HB 417** be concurred in. Motion carried with Senator Gebhardt voting nay.

HB 453 - Senator Pease moved **HB 453** be concurred in. Motion carried unanimously.

HB 479 - Senator D. Ryan moved **HB 479** be concurred in. Motion carried unanimously.

HB 481 - Senator F. Thomas moved consideration of **HB 481** be passed for the day. Motion carried.

HB 496 - Senator Cromley moved **HB 496** be concurred in. Motion carried unanimously.

HB 507 - Senator Anderson moved **HB 507** be concurred in. Motion carried unanimously.

HB 521 - Senator O'Neil moved **HB 521** be concurred in. Motion carried unanimously.

HB 653 - Senator Bales moved **HB 653** be concurred in. Motion carried with Senators Tester and Thomas voting nay.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Story moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 3:10 p.m. so staff could prepare a second agenda. Motion carried.

Senate recessed at 2:50 p.m..

Senate reconvened at 3:30 p.m.

Roll call. All members present except Senators Harrington and Stonington, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

STATE ADMINISTRATION (Cobb, Chairman):

3/28/2003

HB 431, be concurred in. Report adopted.

HB 523, be amended as follows:

1. Title, page 1, line 8.

Strike: "OR COMMENTARY"

2. Page 1, line 19.

Following: "election"

Insert: "-- definition"

3. Page 1, line 20.

Strike: "A POLITICAL" through "527."

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4. Page 1, line 21.

Strike: ", as provided for in 13-37-216(2),"

5. Page 1, lines 22 through 23.

Following: "advertising" on line 22

Strike: "or" through "commentary" on line 23

6. Page 1, line 24.

Following: "unless"

Insert: ":

(a)"

Following: "broadcast"

Insert: "; or

(b) the material does not identify or mention the opposing candidate"

7. Page 1, line 26.

Following: "who are"

Insert: "individually"

8. Page 1, line 27.

Strike: "or commentary"

9. Page 1, line 28.

Strike: "or commentary"

10. Page 2, line 2.

Following: "PROVIDED TO"

Strike: "THE"

Insert: "a newspaper"

Strike: "PUBLISHING"

Insert: "public dissemination"

11. Page 2, line 3.

Strike: "PRODUCER" through "BROADCASTING"

Insert: "broadcaster"

12. Page 2, line 5.

Following: "MADE"

Insert: "available to the general"

13. Page 2, line 8.

Following: "DELIVERY"

Insert: ", with a copy provided by direct mail if the recipient does not have available either electronic mail or facsimile transmission"

14. Page 2, line 10.

Insert: "(5) For the purposes of this section, an independent political committee is a committee that is not specifically organized on behalf of a particular candidate or that is not controlled either directly or indirectly by a candidate or candidate's committee in conjunction with the making of expenditures or accepting contributions."

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15. Page 2, line 14.

Strike: ", commentary, or news"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate: 3/29/2003

SB 302, introduced by McCarthy

House bills passed and transmitted to the Senate for concurrence: 3/29/2003

HB 249, introduced by Barrett

HB 295, introduced by Jent

HB 727, introduced by E. Clark

HB 756, introduced by Kaufmann

HB 761, introduced by Haines

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 249, introduced by Barrett, referred to Fish and Game.

HB 295, introduced by Jent, referred to Finance and Claims.

HB 727, introduced by E. Clark, Cobb, Keenan, Stonington, (by request of the House Joint Appropriations Subcommittee on Health and Human Services) referred to Finance and Claims.

HB 756, introduced by Kaufmann, Bixby, Black, Cohenour, Cyr, Gallik, Jent, Kitzenberg, Smith, referred to Finance and Claims.

HB 761, introduced by Haines, Brueggeman, Facey, Fisher, Morgan, Pattison, Raser, Shockley, Wanzenried, referred to State Administration.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 458 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, Elliott, Gebhardt, Glaser, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Story, Tash, Taylor, Tropila, Zook, Mr. President.

Total 34

Nays: Cooney, Cromley, DePratu, Ellingson, Esp, Grimes, Hansen, Nelson, O'Neil, Schmidt, Stapleton, Tester, Thomas, Toole, Wheat.

Total 15

Paired: Harrington, Aye; Ellingson, No.

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Absent or not voting: None.
Total 0

Excused: Stonington.
Total 1

HB 338, as amended by the Senate, concurred in as follows:

Yeas: Bales, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.
Total 34

Nays: Anderson, Barkus, Black, Butcher, Esp, Gebhardt, Grimes, Laible, McGee, O'Neil, Perry, Stapleton, Story, Zook, Mr. President.
Total 15

Paired: Harrington, Aye; Gebhardt, No.

Absent or not voting: None.
Total 0

Excused: Stonington.
Total 1

HB 610, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.
Total 42

Nays: Cobb, Laible, McGee, O'Neil, Zook, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: Harrington, Stonington.
Total 2

HB 564, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

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Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: Harrington, Stonington.
Total 2

Senator Stonington present at this time.

SB 267 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

SB 323 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Glaser, Grimes, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

SB 424 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington,

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Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

SB 451 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 35

Nays: Cooney, Elliott, Hansen, Johnson, Mahlum, Nelson, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Wheat.
Total 14

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

SB 454 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 3

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 269 - Senator Gebhardt moved **HB 269** be concurred in. Motion carried unanimously.

HB 617 - Senator Grimes moved **HB 617** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.
Total 36

Nays: Bohlinger, Cooney, Cromley, Ellingson, Esp, Hansen, Nelson, Pease, Schmidt, Squires, Tester, Toole, Tropila.
Total 13

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 287 - Senator Anderson moved **HB 287** be concurred in. Motion carried as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Elliott, Gebhardt, Glaser, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.
Total 37

Nays: Bales, Barkus, Curtiss, DePratu, Ellingson, Esp, Grimes, McGee, Nelson, Pease, Stapleton, Zook.
Total 12

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 433 - Senator McCarthy moved **HB 433** be concurred in. Motion carried unanimously.

HB 435 - Senator Cromley moved **HB 435** be concurred in. Motion carried unanimously.

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HB 467 - Senator Perry moved **HB 467** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Taylor, Tester, Thomas, Zook, Mr. President.

Total 34

Nays: Bohlinger, Cobb, Cooney, Cromley, Ellingson, Hansen, McCarthy, Pease, Ryan, Schmidt, Squires, Stonington, Toole, Tropila, Wheat.

Total 15

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 253 - Senator Cooney moved **HB 253** be concurred in. Motion carried with Senators Barkus, Grimes and O'Neil voting nay.

HB 468 - Senator Cooney moved **HB 468** be concurred in. After discussion, Senator Thomas made a **substitute motion** to move consideration of **HB 468** to the bottom of the second reading board.

HB 499 - Senator Schmidt moved **HB 499** be concurred in. Motion carried with Senators Curtiss and McGee voting nay.

HB 527 - Senator Barkus moved **HB 527** be concurred in. Motion carried unanimously.

HB 532 - Senator Cobb moved **HB 532** be concurred in. Motion carried unanimously.

HB 647 - Senator Grimes moved **HB 647**, second reading copy, be amended as follows:

1. Page 13, line 19.

Following: the second "[SECTION]"

Strike: "20(1)(I)"

Insert: "20(1)(h)"

2. Page 13, line 29.

Strike: "20(1)(I)"

Insert: "20(1)(h)"

Amendment **adopted** unanimously.

HB 647 - Senator Grimes moved **HB 647**, as amended, be concurred in. Motion carried unanimously.

HB 681 - Senator O'Neil moved **HB 681**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Following: "NURSE"

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Insert: "OR MEDICAL PRACTITIONER"

2. Page 4, line 26.

Following: "nurse"

Insert: "or a medical practitioner, as defined in 37-2-101"

Amendment **not adopted** as follows:

Yeas: Butcher, Glaser, O'Neil.

Total 3

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

HB 681 - Senator Grimes moved **HB 681** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Hansen, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Schmidt, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Zook, Mr. President.

Total 31

Nays: Barkus, Cocchiarella, Ellingson, Elliott, Esp, Johnson, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Shea, Squires, Story, Toole, Tropila, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

Senator Thomas moved the committee rise and report, and further moved to **segregate HB 253** from the Committee of the Whole report and that the remainder of the report be adopted. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Story moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 451 - Senator Ellingson moved he be allowed to change his vote on **SB 451**, third reading this day, from nay to yea. Motion carried.

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ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 12:30 p.m., Monday, March 31, 2003. Motion carried.

Senate adjourned at 5:02 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SIXTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
March 31, 2003

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-seventh legislative day.

SPECIAL ORDERS OF THE DAY

Senator Hansen introduced Janie and Vince Fox, students of the Harlem School District, who played the National Anthem on their fiddles.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 488, SR 6.**

Correctly engrossed: **SB 155, SB 218, SB 255, SB 260, SB 407, SB 461, SB 463, SB 470, HB 223, HB 523, HB 647.**

Correctly enrolled: **SB 206.**

Examined by the sponsor and found to be correct: **SB 28, SB 100, SB 104, SB 109, SB 114, SB 141, SB 183, SB 229, SB 398, SJR 25.**

Signed by the President at 2:30 p.m., March 27, 2003: **SB 28, SB 100, SB 104, SB 109, SB 114, SB 141, SB 183, SB 229, SB 398, SJR 25.**

Signed by the Secretary of the Senate at 5:00 p.m., March 27, 2003 :**SB 28, SB 100, SB 104, SB 109, SB 114, SB 141, SB 183, SB 229, SB 398, SJR 25.**

Signed by the Speaker at 9:10 a.m., March 28, 2003: **SB 28, SB 100, SB 104, SJR 25.**

Signed by the Speaker at 9:15 a.m., March 28, 2003: **SB 109, SB 114, SB 141, SB 183, SB 229, SB 398.**

Delivered to the Governor for approval at 9:00 a.m., March 31, 2003: **SB 28, SB 100, SB 104, SB 109, SB 114, SB 141, SB 183, SB 229, SB 398.**

Delivered to the Secretary of State at 9:19 a.m., March 31, 2003: **SJR 25.**

BUSINESS AND LABOR (Mahlum, Chairman):

3/31/2003

HB 410, be amended as follows:

1. Title, page 1, line 6.

Following: "TRANSPORTATION"

Strike: remainder of line 6

Insert: ";

2. Title, page 1, line 7.

Following: "REIMBURSES"

Strike: "THE" through "REIMBURSEMENT"

Insert: "PROVIDING THAT A PAYMENT MADE TO AN EMPLOYEE UNDER A COLLECTIVE BARGAINING AGREEMENT, PERSONNEL POLICY MANUAL, EMPLOYEE HANDBOOK, OR ANY OTHER DOCUMENT PROVIDED TO THE EMPLOYEE AS AN INCENTIVE TO WORK AT A JOBSITE IS NOT A REIMBURSEMENT"

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3. Title, page 1, line 8.

Following: "LODGING"

Strike: "AS" through "AGREEMENT"

4. Page 1, line 26.

Strike: "ACTUAL"

5. Page 2, line 2 through line 3.

Following: "(B)" on line 2

Strike: remainder of line 2 through "SITE" on line 3

Insert: "A payment made to an employee under a collective bargaining agreement, personnel policy manual, or employee handbook or any other document provided to the employee that is not wages but is designated as an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil, or lodging, and the employee is not covered under this chapter while traveling"

6. Page 2, line 18.

Strike: "compensation filed"

Insert: "injuries that occur"

And, as amended, be concurred in. Report adopted.

HB 577, be amended as follows:

1. Title, page 1, line 4.

Strike: "THREE"

Insert: "EIGHT"

2. Page 1, line 15.

Strike: "Three"

Insert: "Eight"

And, as amended, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

3/31/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 5:00 p.m., Saturday, March 29, 2003:

TITLE

NAME

Pages:

Beth Bennett, Kalispell, MT
Paul Chaon, Gt. Falls, MT
Cory Kalanick, Gt. Falls, MT
Cortni Jones, Conrad, MT
Chase Mohny, Gt. Falls, MT
Nicole Peiffer, Kalispell, MT
Chelsey Hargrove, Three Forks, MT
Jeremy Robinson, Helena, MT

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and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, March 31, 2003:

<u>TITLE</u>	<u>NAME</u>	<u>SENATOR</u>
Pages:	Brett McChesney, Bozeman, MT	Senator Wheat
	Scott Thomas, Stevensville, MT	Senator Thomas
	Chad Jonart, Butte, MT	Senator Harrington
	Brett Stetzner, Butte, MT	Senator Shea
	Gabe Blomquist, Ryegate, MT	Senator Gebhardt
	Ellie Weber, Gt. Falls, MT	Senator Ryan
	Erin Esp, Fishtail, MT	Senator Esp
	Scott Eggensperger, Thompson Falls, MT	Senator Elliott

Report Adopted.

MOTIONS

HB 253 and HB 468 - Senator Tester moved consideration of **HB 253 and HB 468** be passed for the day as the sponsor is chairman of the Committee of the Whole this day. Motion carried.

SB 323 - Senator Tester moved the Senate reconsider its action on **SB 323**, third reading on the 67th legislative day, to allow Senator Harrington to cast his vote, as he was absent due to illness during consideration of **SB 323**. Because the vote to reconsider would kill the bill, motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 461, SB 255 and SB 260 - Senator Thomas moved consideration of **SB 461, SB 255 and SB 260** be passed for the day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 29, introduced by Toole, DePratu, Johnson, Keenan, referred to Taxation.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Cooney in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 438 - Senator Glaser moved **HB 438** be concurred in. Motion carried unanimously.

HB 642 - Senator Elliott moved **HB 642**, second reading copy, be amended as follows:

1. Page 1, line 19.

Following: "fees"

Insert: ", net of federal and state income tax liability caused by changes in Montana state and local taxes and fees,"

2. Page 1, line 23.

Following: "(2)(c)"

Insert: "if the change in taxes under subsection (2)(a) reduces the public utility's earning to a level below the rate of return authorized in the last general rate case for that utility as determined by the public service commission"

Senator Elliott further moved the **amendment** be **segregated**. Motion carried.

Amendment No. 1- adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat.

Total 29

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Thomas, Zook, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Amendment No. 2 - not adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Johnson, Pease, Roush, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 16

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Ryan, Shea, Sprague,

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Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 33

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

Senator Stapleton excused at this time.

HB 642 - Senator McNutt moved **HB 642**, as amended, be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 29

Nays: Bohlinger, Butcher, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Nelson, Pease, Roush, Ryan, Schmidt, Stonington, Tester, Toole, Tropila, Wheat.
Total 20

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

Senator Stapleton present at this time.

HB 481 - Senator F. Thomas moved **HB 481** be concurred in. Motion carried unanimously.

HB 684 - Senator McCarthy moved **HB 684** be concurred in. Motion carried with Senator Johnson voting nay.

HB 686 - Senator Cobb moved **HB 686** be concurred in. Motion carried with Senator Esp voting nay.

HB 693 - Senator Harrington moved **HB 693** be concurred in. Motion carried unanimously.

HB 731 - Senator Gebhardt moved **HB 731** be concurred in. Motion carried with Senator Story voting nay.

SB 218 - Senator McNutt moved **SB 218** do pass. Motion carried unanimously.

SB 464 - Senator Keenan moved **SB 464** do pass. Motion carried unanimously.

HB 337 - Senator Johnson moved **HB 337** be concurred in. Motion carried unanimously.

HB 20 - Senator Barkus moved **HB 20** be concurred in. Motion carried with Senator Butcher voting nay.

HB 283 - Senator Sprague moved **HB 283** be concurred in. Motion carried unanimously.

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HB 306 - Senator McGee moved **HB 306** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Cooney moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 462 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp, Toole.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 465 failed as follows:

Yeas: Barkus, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Tester, Toole, Tropila, Wheat.
Total 25

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Nays: Anderson, Bales, Black, Bohlinger, Butcher, Curtiss, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Taylor, Thomas, Zook, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 478 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 49

Nays: Mr. President.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 480 passed as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 42

Nays: Anderson, Barkus, DePratu, Gebhardt, Glaser, O'Neil, Taylor, Tropila.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 41 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor,

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Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Curtiss, Glaser, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 67, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 32

Nays: Bales, Cromley, Curtiss, Esp, Gebhardt, Glaser, Laible, Mahlum, McGee, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 155, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 160 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson,

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Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Bales, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 218, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 224, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 277, as amended by the Senate, and requiring 2/3 of entire legislature, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Ryan, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 36

Nays: Butcher, Cooney, Cromley, Ellingson, Elliott, Harrington, Johnson, O'Neil, Roush, Schmidt, Stapleton, Tester, Toole, Wheat.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 269, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 287 concurred in as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Elliott, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 41

Nays: Bales, Barkus, Curtiss, DePratu, Ellingson, Esp, Grimes, McGee, Nelson.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

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Total 0

HB 308, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Cobb.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 388, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 389 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

HB 417 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 433, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Cooney, Ellingson, Toole.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 435, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

HB 453, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 467 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 33

Nays: Bohlinger, Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, McCarthy, Pease, Ryan, Schmidt, Stonington, Tester, Toole, Tropila, Wheat.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 479 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 496 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 499, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 46

Nays: Butcher, Curtiss, Stapleton, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 507 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 521, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 527, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 532, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 617 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Story, Tash, Taylor, Tester, Thomas, Zook, Mr. President.
Total 34

Nays: Bohlinger, Cooney, Cromley, Ellingson, Hansen, Johnson, Nelson, Pease, Ryan, Schmidt, Squires, Stapleton, Stonington, Toole, Tropila, Wheat.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 653, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 681, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stonington, Tash, Taylor, Tester, Thomas, Zook, Mr. President.
Total 31

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Nays: Barkus, Cocchiarella, Ellingson, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Story, Toole, Tropila, Wheat.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

SJR 6 - Senator Grimes moved **SJR 6** be taken from the committee on Taxation and that it be printed and placed on second reading. Motion **failed** as follows:

Yeas: Anderson, Butcher, Cobb, Cromley, Curtiss, Gebhardt, Grimes, Laible, Mahlum, McGee, Pease, Perry, Roush, Ryan, Squires, Stapleton, Thomas, Wheat, Mr. President.

Total 19

Nays: Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Esp, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, O'Neil, Schmidt, Shea, Sprague, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Zook.

Total 31

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 29 - Senator Toole moved **SJR 29** be taken from the Legislative Administration committee and rereferred to the committee on Taxation. Motion carried.

HB 67 - Senator Sprague moved he be allowed to change his vote on **HB 67**, third reading this day, from yea to nay. Motion carried.

HB 467 - Senator Squires moved she be allowed to change her vote on **HB 467**, third reading this day, from nay to yea. Motion carried.

HB 467 - Senator Cooney moved he be allowed to change his vote on **HB 467**, third reading this day, from yea to nay. Motion carried.

REPORTS OF STANDING COMMITTEES

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

3/31/2003

HB 105, be amended as follows:

1. Title, page 1, lines 6 through 9.

Strike: "PROVIDING" on line 6 through "CONTEST";" on line 9

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2. Title, page 1, line 24.

Strike: "45-5-205,"

3. Title, page 1, line 25.

Strike: "61-8-308,"

4. Page 2, line 3 through page 3, line 2.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

5. Page 3, line 15.

Strike: ". [section 2]."

6. Page 4, line 29 through page 5, line 13.

Strike: section 5 in its entirety

Renumber: subsequent sections

7. Page 26, line 16.

Strike: "-- eluding a peace officer"

8. Page 26, line 17.

Strike: "(3)"

Insert: "(2)"

9. Page 26, line 23 through line 28.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

10. Page 33, line 9.

Strike: "2, 8, and 27"

Insert: "5 and 24"

11. Page 33, line 11.

Strike: "2, 8, and 27"

Insert: "5 and 24"

12. Page 33, line 12.

Strike: "52"

Insert: "49"

13. Page 33, line 13.

Strike: "52"

Insert: "49"

And, as amended, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

SB 297, introduced bill, be amended as follows:

3/31/2003

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1. Title, page 1, line 9.

Following: "TAXATION;"

Insert: "REQUIRING CESSATION OF A LOCAL OPTION SALES TAX IF A STATEWIDE GENERAL SALES TAX AND USE TAX IS ENACTED; ALLOWING REINSTATEMENT OF A LOCAL OPTION SALES TAX WITH A MAXIMUM RATE OF 2 PERCENT UPON A VOTE;"

2. Page 1, line 30.

Strike: "that are not owned by a governmental entity"

3. Page 2, line 18.

Following: "but"

Insert: ", except as provided in [section 9(4)],"

4. Page 3, line 8.

Following: "tax"

Insert: ", which may not exceed 20 years"

5. Page 7, line 26.

Insert: "(4) If a statewide general sales tax and use tax is enacted, a municipality or county imposing the local option sales tax shall cease imposing the tax before the applicability date of the sales tax and use tax unless bonding obligations require the tax to continue to be collected. Any local option sales tax collections owed to the municipality or county continue to be a debt to the municipality or county, and any actions to enforce the tax or collect the tax are unaffected by the cessation of the local option sales tax. The local option sales tax may be reinstated upon approval of the electorate subject to the local option sales tax. The maximum tax rate of a local option sales tax if a statewide general sales tax and use tax is in effect is 2%."

6. Page 8, line 3.

Following: "A"

Insert: "new"

7. Page 8, line 14.

Following: "A"

Insert: "new"

And, as amended, do pass. Report adopted.

SB 475, do pass. Report adopted.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, April 1, 2003. Motion carried.

Senate adjourned at 3:06 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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58TH LEGISLATURE
SIXTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 1, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-eighth legislative day.

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman):
HB 640, be amended as follows:

4/1/2003

1. Title, line 6.

Strike: "MUNICIPALITY"

Insert: "CITY OR TOWN"

2. Title, line 7.

Following: "CODES;"

Insert: "REVISING DEFINITIONS AND THE USE OF DEFINED TERMS; PROVIDING A TRANSITION PERIOD CONCERNING JURISDICTION;"

Following: "13-19-106,"

Insert: "50-3-103,"

Strike: "50-60-310, AND 50-60-311,"

Insert: "50-60-102, 50-60-106, 50-60-107, 50-60-109, 50-60-110, 50-60-115, 50-60-118, 50-60-205, 50-60-211, 50-60-212, 50-60-213, 50-60-301, 50-60-302, 50-60-303, 50-60-404, 50-60-506, 50-60-510, 50-60-604, 50-60-605, AND 50-60-607,"

3. Title, lines 8 and 9.

Following: "SECTIONS" on line 8

Insert: "50-60-310, 50-60-311,"

Following: "PROVIDING" on line 8

Strike: remainder of line 8 through "IMMEDIATE" on line 9

Following: "EFFECTIVE"

Strike: remainder of line 9 through "APPLICABILITY DATE"

Insert: "DATES"

4. Page 2, line 8.

Insert: "**Section 2.** Section 50-3-103, MCA, is amended to read:

"50-3-103. Rules promulgated by department. (1) Rules promulgated by the department by authority of 50-3-102 must be reasonable and calculated to effect the purposes of this chapter. The rules must include but are not limited to requirements for:

(a) design, construction, installation, operation, storage, handling, maintenance, or use of structural requirements for various types of construction;

(b) building restrictions within congested districts;

(c) exit facilities from structures;

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- (d) fire extinguishers, fire alarm systems, and fire extinguishing systems;
- (e) fire emergency drills;
- (f) flue and chimney construction;
- (g) heating devices;
- (h) electrical wiring and equipment;
- (i) air conditioning, ventilating, and other duct systems;
- (j) refrigeration systems;
- (k) flammable liquids;
- (l) oil and gas wells;
- (m) application of flammable finishes;
- (n) explosives, acetylene, liquefied petroleum gas, and similar products;
- (o) calcium carbide and acetylene generators;
- (p) flammable motion picture film;
- (q) combustible fibers;
- (r) hazardous chemicals or materials;
- (s) rubbish;
- (t) open-flame devices;
- (u) parking of vehicles;
- (v) dust explosions;
- (w) lightning protection;
- (x) storage of smokeless powder and small arms primers; and
- (y) other special fire hazards.

(2) If rules relate to building and equipment standards covered by the state building code or a ~~municipal county~~, city, or town building code, the rules are effective upon approval of the department of labor and industry and filing with the secretary of state.

(3) Federal or other nationally recognized standards for fire protection may be adopted in whole or in part by reference.

(4) Rules must be adopted as prescribed in the Montana Administrative Procedure Act.

(5) Rules promulgated by the department may not prevent the installation of an aboveground storage tank in a community, city, or town with a population of 1,500 or less if the tank is installed in conformance with all other applicable laws and regulations.

(6) Rules promulgated by the department may not require diked areas or heat-actuated or other shutoff devices for storage tanks containing class I or class II liquids, as defined in the uniform fire code, intended only for private use on farms and ranches.

(7) A person violating any rule made under the provisions of this part is guilty of a misdemeanor.""

Renumber: subsequent sections

5. Page 2, line 22.

Following: line 21

Insert: "(4) "City or town" means an incorporated city or town as provided for in Title 7, chapter 2, part 41."

Renumber: subsequent subsections

6. Page 2, line 27 through line 29.

Strike: subsection (6) in its entirety

Renumber: subsequent sections

7. Page 3, line 9.

Strike: "municipality"

Insert: "county, city, or town"

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8. Page 3, line 13.

Strike: "municipality"

Insert: "county, city, or town"

9. Page 3, lines 14 and 15.

Strike: subsections (12) and (13) in their entirety

Renumber: subsequent subsections

10. Page 4, line 11 through page 5, line 15.

Strike: sections 3 and 4 in their entirety

Insert: "**Section 4.** Section 50-60-102, MCA, is amended to read:

"50-60-102. Applicability. (1) Except as provided in subsection (5), the state building code, as defined in 50-60-203(3), does not apply to:

(a) residential buildings containing less than five dwelling units or their attached-to structures, any farm or ranch building of any size, and any private garage or private storage structure of any size used only for the owner's own use, located within ~~the municipality's or county's jurisdictional area~~ a county, city, or town, unless the local legislative body ~~or board of county commissioners~~ by ordinance or resolution makes the state building code applicable to these structures;

(b) mines and buildings on mine property regulated under Title 82, chapter 4, and subject to inspection under the Federal Mine Safety and Health Act;

(c) petroleum refineries and pulp and paper mills, except a structure classified under chapter 7, section 701, group B, division 2, and chapter 9, section 901, group H, outside of process units, of the 1991 edition of the Uniform Building Code; or

(d) industrial process piping, vessels, and equipment and process-related structures located outside of another structure occupied on a regular basis by employees or the public.

(2) Except as provided in subsection (5), the state may not enforce the state building code under 50-60-205 for the buildings referred to in subsection (1). ~~Local governments~~ A county, city, or town that ~~have~~ has made the state building code applicable to the buildings referred to in subsection (1) may enforce within ~~their jurisdictional areas~~ the area of its jurisdiction the state building code as adopted by the ~~respective local government~~ county, city, or town.

(3) When good and sufficient cause exists, a written request for limitation of the state building code may be filed with the department for filing as a permanent record.

(4) The department may limit the application of any rule or portion of the state building code to include or exclude:

(a) specified classes or types of buildings according to use or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based on size, population density, special conditions prevailing in the area, or other factors that make differentiation or separate classification or regulation necessary, proper, or desirable.

(5) (a) For purposes of promoting the energy efficiency of home design and operation, the provisions of the state building code relating to energy conservation adopted pursuant to 50-60-203(1) apply to residential buildings, except:

(i) farm and ranch buildings; and

(ii) any private garage or private storage structure attached to a residential building and used only for the owner's own use.

(b) The provisions of the state building code relating to energy conservation in residential buildings are enforceable:

(i) by the department only for those residential buildings containing five or more dwelling units or otherwise subject to the state building code; and

(ii) through the builder self-certification program provided for in 50-60-802 for those residential buildings containing less than five dwelling units and not otherwise subject to the state building code.""

Insert: "**Section 5.** Section 50-60-106, MCA, is amended to read:

"50-60-106. Powers and duties of municipalities counties, cities, and towns. (1) The examination, approval,

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or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the ~~municipal jurisdictional area~~ limits of a city or town are the responsibility of the ~~municipalities~~ city or town of the state. The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the portion of a county that is covered by a county building code are the responsibility of the county.

(2) Each ~~municipality or county, city, or town~~ certified under 50-60-302 shall, within its jurisdictional area:

(a) examine, approve, or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the applicable provisions of the state building code or ~~municipal~~ county, city, or town building code, and direct the inspection of the buildings during and in the course of construction;

(b) require that construction of buildings be in accordance with the applicable provisions of the state building code or ~~municipal~~ county, city, or town building code, subject to the powers of variance or modification granted to the department;

(c) make available to building contractors at a price that is commensurate with reproduction costs a checklist devised by the department pursuant to 50-60-118 for single-family dwellings and provide to contractors who attach a completed checklist to the plans submitted for examination the relevant building permit or notice of plan disapproval within 10 working days of the contractor's submission;

(d) during and in the course of construction, order in writing the remedying of any condition found to exist in, on, or about any building that is being constructed in violation of the ~~applicable~~ state building code or ~~municipal~~ county, city, or town building code. Orders may be served upon the owner or the owner's authorized agent personally or by sending by certified mail a copy of the order to the owner or the owner's authorized agent at the address set forth in the application for permission for the construction of the building. A local building department, by action of an authorized officer, may grant in writing time as may be reasonably necessary for achieving compliance with the order. For the purposes of this subsection (2)(d), the phrase "during and in the course of construction" refers to the construction of a building until all necessary building permits have been obtained and the municipality or county has issued formal written approvals or has issued a certificate of occupancy for the building.

(e) issue certificates of occupancy as provided in 50-60-107;

(f) issue permits, licenses, and other required documents in connection with the construction of a building;

(g) ensure that all construction-related fees or charges imposed and collected by the municipality or county are necessary, reasonable, and uniform and are:

(i) except as provided in subsection (2)(g)(iii), used only for building code enforcement, which consists of those necessary and reasonable costs directly and specifically identifiable for the enforcement of building codes, plus indirect costs charged on the same basis as other local government proprietary funds not paying administrative charges as direct charges. If indirect costs are waived for any local government proprietary fund, they must also be waived for the program established in this section. Indirect charges are limited to the charges that are allowed under federal cost accounting principles that are applicable to a local government.

(ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce building codes for 12 months. The excess must be placed in a reserve account and may only be used for building code enforcement. Collection and expenditure of fees and charges must be fully documented.

(iii) allocated and remitted to the department, in an amount not to exceed 0.5% of the building fees or charges collected, for the building codes education program established in 50-60-116.

(3) Each ~~municipality or county~~ county, city, or town with a building code enforcement program that has been certified under 50-60-302 may, within its ~~jurisdictional~~ the area of its jurisdiction:

(a) make, amend, and repeal rules for the administration and enforcement of the provisions of this section and for the collection of fees and charges related to construction;

(b) prohibit the commencement of construction until a permit has been issued by the local building department after a showing of compliance with the requirements of the applicable provisions of the state building code or ~~municipal~~

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county, city, or town building code; and

(c) enter into a private contract with the owner or builder of a building that is not or will not be within the jurisdiction of the ~~municipality~~ or county, city, or town under which the ~~municipality~~ or county, city, or town will provide reviews, inspections, orders, and certificates of occupancy for a fee and under conditions agreed upon by the parties. ~~Municipal or county~~ County, city, or town powers of enforcement may not be exercised."

Insert: "Section 6. Section 50-60-107, MCA, is amended to read:

"50-60-107. Certificate of occupancy. (1) A certificate of occupancy for a building constructed in accordance with the provisions of the state building code or ~~municipal~~ county, city, or town building code ~~shall~~ must certify that the building conforms to the requirements of the building regulations applicable to it.

(2) Every certificate of occupancy, unless and until set aside or vacated by a court of competent jurisdiction, is binding and conclusive upon all ~~municipal~~ county, city, or town agencies as to all matters set forth, and ~~no an~~ order, directive, or requirement at variance ~~therewith~~ with the certificate of occupancy may not be made or issued by any other state agency or ~~municipal~~ county, city, or town agency."

Insert: "Section 7. Section 50-60-109, MCA, is amended to read:

"50-60-109. Injunctions authorized. (1) The construction or use of the building in violation of any provision of the state building code or ~~municipal~~ county, city, or town building code or any lawful order of a state building official or a local building department may be enjoined by a judge of the district court in the judicial district in which the building is located.

(2) This section ~~will be~~ is governed by the Montana Rules of Civil Procedure."

Insert: "Section 8. Section 50-60-110, MCA, is amended to read:

"50-60-110. Violation a misdemeanor. Any person served with an order pursuant to the provisions of parts 1 through 4 who fails to comply with the order not later than 30 days after service or within the time fixed by the department or a local building department for compliance, whichever is the greater, or any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent, their agents, or any person taking part or assisting in the construction or use of any building who knowingly violates any of the applicable provisions of the state building code or a ~~municipal~~ county, city, or town building code is guilty of a misdemeanor."

Insert: "Section 9. Section 50-60-115, MCA, is amended to read:

"50-60-115. Building codes council -- purpose and structure. (1) There is a building codes council for the purpose of assisting the department with the application, implementation, and interpretation of the state building code and building codes adopted by ~~local governments~~ counties, cities, or towns. The council shall work cooperatively with the department and with representatives of the construction industry, as well as members of the interested public, to harmonize building codes and related rules with both the needs of the construction industry and the public interest in efficiency, cost-effectiveness, and safety.

(2) The council consists of 11 members appointed by the governor, unless otherwise specified, as follows:

- (a) a practicing architect licensed in Montana;
 - (b) a practicing professional engineer licensed in Montana;
 - (c) a representative from the building contractor industry;
 - (d) a ~~municipal~~ county, city, or town building inspector;
 - (e) a representative of the manufactured housing industry;
 - (f) a member of the general public who does not hold public office and who does not represent the same industry or agency as another council member;
 - (g) the director of the department of health and human services or the director's designee;
 - (h) a licensed electrician selected by the board of electricians;
 - (i) a licensed plumber selected by the board of plumbers;
 - (j) the state fire marshal or the fire marshal's designee; and
 - (k) a representative of the home building industry.
- (3) The appointed council members serve at the pleasure of the governor for terms of 3 years.
- (4) The council is allocated to the department for administrative purposes only as provided in 2-15-121.
- (5) The council and its members are entitled to compensation as provided in 2-15-122."

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Insert: "Section 10. Section 50-60-118, MCA, is amended to read:

"50-60-118. Examination of single-family dwelling plans -- statewide approval for model plans -- fee adjustments -- mandatory checklist. (1) The department shall accept for examination and approval or disapproval all model construction plans for single-family dwellings submitted to the department.

(2) Once a model construction plan has been approved, the department shall indicate in writing on the approved plan that the plan is acceptable on a statewide basis and that no further examination is warranted except with respect to:

- (a) zoning;
- (b) footings, foundations, and basements;
- (c) curbs;
- (d) gutters;
- (e) landscaping;
- (f) utility connections;
- (g) street requirements;
- (h) sidewalks; and
- (i) other requirements specifically related to the exterior of the building.

(3) Local building departments shall reduce plan examination fees commensurate with the reduced time and effort expended resulting from the department's examination provided for in subsection (1).

(4) This section may not be construed to reduce the requirements for obtaining permits for onsite inspection of the residence under construction pursuant to 50-60-106.

(5) (a) The department shall devise a checklist for the examination of single-family dwelling construction plans by the department and by the building code enforcement officials of ~~municipalities and counties~~, cities, and towns.

(b) The checklist must be based upon the most recently adopted edition of the council of American building officials One and Two Family Dwelling Code, as amended.

(c) The checklist is subject to review and amendment by the building codes council provided for in 50-60-115.

(d) The checklist must be made available to building contractors at a price that is commensurate with reproduction costs, and a building contractor who uses the checklist and attaches it to the plans that the contractor submits to the department or a ~~municipality or county~~, city, or town for examination is entitled to receive the relevant building permit or notice of disapproval within 10 days of submission of the completed checklist."

Insert: "Section 11. Section 50-60-205, MCA, is amended to read:

"50-60-205. When state building code applies -- health care facility and public health center doors. (1) If a ~~municipality or county~~, city, or town does not adopt a building code as provided in 50-60-301, the state building code applies within the ~~municipal or county, city, or town jurisdictional area~~ and the state will enforce the code in these areas.

(2) Any provision of a building code requiring the installation or maintenance of self-closing or automatic closing corridor doors to patient rooms does not apply to health care facilities as defined in 50-5-101 or to a public health center as defined in 7-34-2102."

Insert: "Section 12. Section 50-60-211, MCA, is amended to read:

"50-60-211. Inspections. (1) The construction of a public building or alteration to a primary function area of a public building must be inspected for physical accessibility to persons with disabilities.

(2) The inspection must include the building site, including applicable exterior features, such as parking areas, passenger loading zones, private sidewalks, and the accessibility from adjacent public sidewalks, public streets, and public transportation stops.

(3) (a) The inspections must be completed by state building inspectors in areas not covered by a ~~municipal or county, city, or town~~ building code.

(b) (i) ~~Municipalities and counties~~ Counties, cities, and towns that have adopted a building code may assign appropriately trained personnel to perform site inspections conducted pursuant to this part.

(ii) ~~Municipalities and counties~~ Counties, cities, and towns conducting inspections pursuant to this section must have an enforcement mechanism in place to ensure compliance with the accessibility provisions of this part, including but not limited to denying building permits or certificates of occupancy, injunctions, or other civil enforcement procedures allowed by law.

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(4) Existing public buildings that are not undergoing an alteration to a primary function area are not subject to the inspection provisions of this section."

Insert: "Section 13. Section 50-60-212, MCA, is amended to read:

"50-60-212. Disclaimer. A building permit or certificate of occupancy issued by the state or by a ~~municipality or county, city, or town~~ must contain a statement that reads: "Compliance with the requirements of the state building code for physical accessibility to persons with disabilities does not necessarily guarantee compliance with the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Fair Housing Amendments Act of 1988, Title 49, chapter 2, commonly known as the Montana Human Rights Act, or other similar federal, state, or local laws that mandate accessibility to commercial construction or multifamily housing.""

Insert: "Section 14. Section 50-60-213, MCA, is amended to read:

"50-60-213. Accessible exterior routes -- exceptions. (1) Except as provided in subsection (6), for a public building, an accessible exterior route must be provided from public transportation stops located within the boundary of the building site, from accessible parking and accessible passenger loading zones within the boundaries of the building site, and from public sidewalks that are immediately adjacent to the building site, if sidewalks exist, to the building's accessible entrance served by the transportation stops, parking and loading zones, or sidewalks.

(2) (a) When more than one public building is located on a site, at least one accessible exterior route must connect accessible elements, facilities, and buildings that are on the site.

(b) For the purposes of 50-60-214 and this section, "element" means an architectural or mechanical component of a public building, facility, space, or site and includes but is not limited to telephones, curb ramps, doors, drinking fountains, seating, and water closets.

(3) An accessible exterior route between accessible public parking and an accessible building entrance must be the most practical direct route.

(4) (a) A person or entity constructing a public building is not required to fully comply with the provisions of this section if the person can demonstrate that due to characteristics of the terrain, it is structurally impractical to fully comply.

(b) Full compliance may be considered structurally impractical only in those rare circumstances when the unique characteristics of the terrain prevent the incorporation of accessibility features.

(c) The person or entity shall comply with the provisions of this section to the extent that compliance is not structurally impractical.

(d) The department shall adopt rules to assist all interested parties involved in the design, construction, and inspection processes in determining structural impracticality.

(5) (a) If a paved parking lot is not planned or present for a public building, a person or entity constructing the public building is not required to pave the entire lot, unless otherwise required by law, ordinance, or applicable building code, but shall provide pavement or a similarly firm, stable, and slip-resistant surface for parking spaces designated for persons with disabilities.

(b) An accessible exterior route with a suitably firm, stable, and slip-resistant surface must be provided from the designated parking spaces to an accessible building or facility entrance.

(c) The total number of designated accessible parking spaces in a parking lot or area must be the number provided for in the applicable state building code or local government ~~county, city, or town~~ building code.

(6) An accessible route is not required in cases where there is not a pedestrian route for the general public.

(7) The state, ~~municipalities, and~~ counties, cities, and towns shall use the same accessibility standards."

Insert: "Section 15. Section 50-60-301, MCA, is amended to read:

"50-60-301. ~~Municipal and county~~ County, city, and town building codes authorized -- health care facility and public health center doors -- fee adjustment for model plans. (1) The local legislative body of a ~~municipality or county, city, or town~~ may adopt a building code to apply to the ~~municipal or county, city, or town jurisdictional area~~ by an ordinance or resolution, as appropriate:

(a) adopting a building code; or

(b) authorizing the adoption of a building code by administrative action.

(2) A ~~municipal or county, city, or town~~ building code may include only codes adopted by the department.

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(3) Any provision of a building code requiring the installation or maintenance of self-closing or automatic closing corridor doors to patient rooms does not apply to health care facilities, as defined in 50-5-101, or to a public health center, as defined in 7-34-2102.

(4) (a) When the same single-family dwelling plan is constructed at more than one site, the ~~municipality or county, city, or town~~ shall, after the first examination of the plan, adjust the required plan fee to reflect only the cost of reviewing requirements pertaining to the review of:

- (i) zoning;
- (ii) footings, foundations, and basements;
- (iii) curbs;
- (iv) gutters;
- (v) landscaping;
- (vi) utility connections;
- (vii) street requirements;
- (viii) sidewalks; and
- (ix) other requirements related specifically to the exterior of the building.

(b) If a building contractor alters the single-family dwelling plan referred to in subsection (4)(a) in a fashion that substantially affects the building code requirements, the ~~municipality or county, city, or town~~ may impose the full examination fee permitted under 50-60-106."

Insert: "Section 16. Section 50-60-302, MCA, is amended to read:

"50-60-302. Certification of ~~municipal and county, city, or town~~ building codes. (1) A county, ~~or municipality~~ city, or town may not enforce a building code unless:

(a) the code enforcement program has been certified by the department as in compliance with applicable statutes and department certification rules;

(b) the current adopted code, a current list of fees to be imposed, and a current plan for enforcement of the code have been filed with and approved by the department; and

(c) all inspectors inspecting or approving any installations, which if accomplished commercially require state licensure, must themselves be properly and currently state-licensed as journeymen in that craft or occupation or be certified by a nationally recognized entity for testing and certification of inspectors that is approved by the department before being permitted to inspect or approve any installations.

(2) The department shall adopt additional rules and standards governing the certification of ~~municipal and county, city, and town~~ building code enforcement programs that must include provisions for prompt revocation of certification for refusal or failure to comply with any applicable statute or rule. The department may allow a county, ~~or municipality~~ city, or town a reasonable amount of time, not to exceed 6 months, to correct identified code enforcement program deficiencies, unless the deficiencies constitute an immediate threat to the public health, safety, or welfare, in which case the department may require immediate correction. Failure to correct deficiencies within the time set by the department constitutes a basis for immediate decertification of the code enforcement program. Continued operation of a county, ~~or municipal~~ city, or town code enforcement program in violation of a department order to correct deficiencies may be enjoined or subject to a writ of mandamus by a judge of the district court in the jurisdiction in which the county, ~~or municipality~~ city, or town is located. The rules and standards must include provisions for the department to ensure that all code enforcement program functions are being properly performed.

(3) If the certification of any local government code enforcement program is revoked for any violation or deficiency, the state resumes its original jurisdiction for state building code enforcement within the ~~municipal or county, city, or town~~ area and the local government retains the responsibility for completion of inspections and issuance of certificates of occupancy on any incomplete construction projects previously permitted by the ~~local government~~ county, city, or town, unless the reason for the decertification is directly related to the protection of health, safety, and welfare of the public.

(4) If a ~~local government~~ county, city, or town voluntarily decertifies its code enforcement program, the department must be given written notification of the intended decertification at least 90 days prior to the date of decertification. The ~~local government~~ county, city, or town retains the responsibility for completion of inspections and

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issuance of certificates of occupancy on any incomplete construction projects permitted by the ~~local government~~ county, city, or town prior to decertifying its code enforcement program.""

Insert: "Section 17. Section 50-60-303, MCA, is amended to read:

"50-60-303. ~~Municipal and county~~ County, city, or town appeal procedure. (1) If a ~~municipality or county,~~ city, or town adopts a building code, it shall also establish an appeal procedure by ordinance or resolution, as appropriate, that is acceptable to the department.

(2) If a ~~municipality or county,~~ city, or town does not adopt a code, appeals on the application of the state building code within the ~~municipal or county,~~ city, or town jurisdictional area must be made to the department.""

Insert: "Section 18. Section 50-60-404, MCA, is amended to read:

"50-60-404. Enforcement of building construction standards for modular homes. (1) The provisions of this chapter apply to factory-built modular or prebuilt homes or buildings.

(2) A ~~municipality~~ county, city, or town may regulate the construction of factory-built modular or prebuilt homes or buildings as provided in 50-60-106 if:

- (a) the homes or buildings are constructed inside the jurisdiction of the ~~municipality~~ county, city, or town;
- (b) the homes or buildings are sold primarily to persons in the county in which the factory is located;
- (c) the factory does not manufacture more than 100 homes or buildings a year; and
- (d) the ~~municipality~~ county, city, or town has an agency or officer assigned to inspect and enforce building construction standards.

(3) Inspection and enforcement approval given by a ~~municipality~~ county, city, or town under this section may be recognized and accepted by any other ~~municipality~~ county, city, or town of the state to which the factory-built home or building is transported for final installation. Additional inspections need not be conducted.""

Insert: "Section 19. Section 50-60-506, MCA, is amended to read:

"50-60-506. Exceptions to permit requirement. (1) ~~No~~ A permit is not required for any minor replacement or repair work, the performance of which does not have a significant potential for creating a condition hazardous to public health and safety.

(2) ~~No~~ A permit is not required where the installation is exempt under the provisions of 37-69-102 or 50-60-503.

(3) ~~No~~ A state permit is required whenever the installation occurs in an area governed by a ~~municipality~~ county, city, or town and where there is in effect a ~~municipal~~ county, city, or town building code ~~which that~~ covers plumbing installations and ~~which that~~ provides inspection procedures.

(4) ~~Nothing contained in this~~ This part shall does not prohibit the owner of residential property from making an installation for all sanitary plumbing and potable water supply piping without a permit ~~providing he if the owner personally~~ does the work himself.

(5) The provisions of this part do not apply to regularly employed maintenance personnel doing maintenance work on the business premises of their employer unless the work is subject to the permit provisions of this part.""

Insert: "Section 20. Section 50-60-510, MCA, is amended to read:

"50-60-510. Inspections to ensure compliance. All plumbing and drainage systems may be inspected by the department of labor and industry or an authorized representative or ~~by a municipality or county, city, or town~~ certified to perform an inspection pursuant to 50-60-302 in order to ensure compliance with the requirements of the state plumbing code. As part of any inspection, the inspector shall request proof of licensure from any person who is required to be licensed who is involved with or, in the inspector's judgment, appears to be involved with plumbing activities if the person is on the site. The inspector shall report any instance of license violation to the inspector's employing agency, and the employing agency shall in turn report the violation to the board of plumbers.""

Insert: "Section 21. Section 50-60-604, MCA, is amended to read:

"50-60-604. Inspections -- electrical permits -- fees. The department of labor and industry or an authorized representative or a ~~municipality or county, city, or town~~ certified to perform an inspection pursuant to 50-60-302 shall inspect electrical installations, issue electrical permits for these installations, and establish and charge a reasonable and uniform fee for the inspections. The fee must be commensurate with the expense of providing the inspection and with appropriations for other purposes. As part of any inspection, the inspector shall require proof of licensure from any person who is required to be licensed who is involved with or, in the inspector's judgment, appears to be involved with electrical

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installations if the person is on the site. The inspector shall report any instance of license violation to the inspector's employing agency, and the employing agency shall in turn report the violation to the board of electricians."

Insert: "**Section 22.** Section 50-60-605, MCA, is amended to read:

"50-60-605. Power supplier not to energize installation without electrical permit. Individuals, firms, cooperatives, corporations, or municipalities selling electricity are power suppliers. Except for temporary connections that the department of labor and industry may authorize by rule for a period not exceeding 14 days without a preconnection inspection, power suppliers may not connect with or energize an electrical installation under this part unless the owner or a licensed electrical contractor has delivered to the power supplier an electrical permit covering the installation, issued by the department of labor and industry or a ~~municipality or county~~, city, or town certified to enforce the electrical code pursuant to 50-60-302."

"

Insert: "**Section 23.** Section 50-60-607, MCA, is amended to read:

"50-60-607. Energizing electrical installation without permit -- misdemeanor. Any person, partnership, company, firm, association, or corporation, other than a power supplier, that energizes an electrical installation under this part for which an electrical permit has not been issued by the department of labor and industry or a ~~municipality or county~~, city, or town certified to enforce the electrical code pursuant to 50-60-302 is guilty of a misdemeanor."

Insert: "**NEW SECTION. Section 24. Area of applicability of county, city, or town building code -- enforcement.**

(1) A city or town that adopts a building code under this chapter may enforce its building code only within the incorporated limits of the city or town.

(2) A county may adopt a building code under this chapter on a countywide basis unless a city or town within the county has adopted a building code. If a city or town within the county has adopted a building code, then the county may not enforce the county building code in that city or town.

(3) A county, city, or town may contract for the enforcement of its building code."

Insert: "**NEW SECTION. Section 25. Transition.** (1) A municipality is responsible for completing inspections that are required for those building, electrical, plumbing, and mechanical permits issued by the municipality in an extended jurisdictional area prior to October 1, 2003.

(2) A project in an extended jurisdictional area that required a building permit prior to October 1, 2003, is subject to city or town jurisdiction until the project is completed. A municipality may not apply its building code to a new project after October 1, 2003.

(3) A county that has not adopted a building code prior to [the effective date of this section] may adopt a building code, but the building code may not be effective before October 1, 2003."

Renumber: subsequent sections

11. Page 5, line 17.

Following: "Sections"

Insert: "50-60-310, 50-60-311,"

12. Page 5, line 19.

Insert: "**NEW SECTION. Section 27. Codification instruction.** [Section 24] is intended to be codified as an integral part of Title 50, chapter 60, part 3, and the provisions of Title 50, chapter 60, part 3, apply to [section 24]."

13. Page 5, line 20.

Strike: "date"

Insert: "dates"

Following: "date."

Strike: "[This act] is"

Insert: "(1) Except as provided in subsection (2), [this act] is effective October 1, 2003.

(2) [Section 25 and this section] are"

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14. Page 5, lines 22 and 23.

Strike: section 7 in its entirety

And, as amended, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

4/1/2003

HB 107, be amended as follows:

1. Title, line 10.

Strike: "DISTRICTS"

Following: "ENROLLMENT"

Insert: "SIZE GROUPS"

2. Page 2, line 16.

Strike: "DISTRICTS"

Following: "ENROLLMENT"

Insert: "size groups"

3. Page 3, line 14.

Strike: "By"

Insert: "Between January 15 and"

4. Page 4.

Following: line 18

Insert: "(8) A teacher who receives loan repayment assistance under the provisions of [sections 1 through 4] is not eligible for the teacher signing bonus program provided for in [Senate Bill No. 267]."

Renumber: subsequent subsection

5. Page 4.

Following: line 25

Insert: "NEW SECTION. **Section 6. Coordination instruction.** If Senate Bill No. 267 is not passed and approved, then [this act] is void."

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 540, be amended as follows:

1. Page 2, line 30.

Following: "competent"

Insert: "-- duty to serve"

Following: "A"

Insert: "It is the policy of this state that all qualified citizens have an obligation to serve on juries upon being summoned for jury duty, unless excused."

2. Page 3, line 10.

Following: "present"

Insert: ", working with the office of the secretary of state,"

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3. Page 3, line 11.

Following: "registrar"

Insert: ", working with the office of the secretary of state"

4. Page 3, line 12.

Following: "officers"

Insert: ", working with the office of the secretary of state,"

5. Page 3, line 25.

Strike: "county clerk and recorder"

Insert: "office of the secretary of state"

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

3/31/2003

SB 368, introduced bill, be amended as follows:

1. Title, line 11.

Strike: "LIMITING"

Insert: "PROHIBITING"

2. Title, line 12 through line 13.

Strike: "ASSESSING" on line 12 through "STREETS" on line 13

Insert: "IMPOSING IMPACT FEES,"

3. Title, line 14 through line 16.

Strike: "REQUIRING" on line 14 through "ACT;" on line 16

4. Title, line 19.

Strike: "7-13-2301, 7-13-4304,"

Insert: "AND"

Following: "76-3-501,"

Strike: "AND 76-3-510,"

5. Page 2, line 12.

Following: "equitable"

Insert: "impact fee"

6. Page 2, line 13 through line 14.

Strike: ":" on line 13 through "(a)" on line 14

7. Page 2, line 14 through line 15.

Strike: ";" on line 14 through "affordability" on line 15

8. Page 2, line 23.

Following: "construction"

Insert: "or acquisition"

Strike: "a"

Insert: "an expected minimum"

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9. Page 2, line 26.

Strike: "pipe"

Insert: "system"

10. Page 2, line 27.

Strike: "water"

Insert: "service"

11. Page 2, line 29.

Strike: "existing or new"

Following: "facilities"

Insert: "not specifically associated with making the service connection"

12. Page 3, line 2.

Strike: ", which"

Insert: "that uses the existing capacity of public facilities or"

13. Page 3, line 11.

Following: "costs"

Insert: ", including the cost of administering the program and costs incurred by the impact fee advisory committee established under [section 5]"

14. Page 3, line 15.

Strike: "or"

15. Page 3.

Following: line 15

Insert: "(iii) the cost of developing the impact fee study, subsequent updates to the study, or the ordinance; or"

16. Page 3, line 16.

Strike: "(iii)"

Insert: "(iv)"

Following: "law"

Insert: ", including but not limited to user fees, special improvement district assessments, and costs of ongoing maintenance"

17. Page 3, line 21 through line 22.

Strike: subsection (13) in its entirety

Renumber: subsequent subsections

18. Page 3, line 27 through line 30.

Strike: "that" on line 27

Insert: "the"

Strike: ", " on line 27 through "development" on line 30

Insert: "that is roughly proportional to the need that is attributable to the development"

19. Page 4, line 1 through line 5.

Strike: "any" on line 1 through "facility" on line 5

Insert: ": (a) water supply production, treatment, storage, and distribution facilities;

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- (b) wastewater and solid waste collection, treatment, and disposal facilities;
- (c) roads, streets, and bridges, including rights-of-way, traffic signals, and landscaping;
- (d) storm water collection, retention, detention, treatment, and disposal facilities and flood control facilities;
- (e) parks, excluding the costs of land acquisition; and
- (f) police, emergency medical, rescue, and fire protection facilities"

20. Page 4, line 16.

Strike: "sound engineering studies"

Insert: "a facilities plan"

21. Page 4, line 17.

Following: "acquisition,"

Insert: "construction,"

22. Page 4, line 23.

Following: "entity"

Insert: "that are unrelated to the administration of the impact fee program"

23. Page 4, line 30.

Following: "design"

Insert: ", financing,"

24. Page 5, line 2.

Strike: "(17)(a)"

Insert: "(16)(a)"

25. Page 5, line 3 through line 4.

Strike: "transportation" on line 3 through "(17)(c)" on line 4

Insert: "wastewater facility described in subsection (16)(b);

(c) a transportation facility described in subsection (16)(c);

(d) a storm water facility described in subsection (16)(d);

(e) a parks facility described in subsection (16)(e); or

(f) a police or emergency facility described in subsection (16)(f)"

26. Page 5, line 10.

Strike: "specifically"

27. Page 5, line 12 through line 16.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

28. Page 5, line 19.

Strike: "or"

29. Page 5, line 21.

Following: "development;"

Insert: "or (iii) the time of wastewater or water service connection or well or septic permitting;"

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30. Page 5, line 22 through line 28.

Strike: subsection (5)(b) in its entirety

Renumber: subsequent subsections

31. Page 6, line 6.

Strike: "and" through "[section 12]"

32. Page 6, line 7.

Following: "schedule of"

Insert: "estimated"

33. Page 6, line 8.

Strike: "and"

Insert: "(i) provide for an annual inflationary index adjustment to the maximum impact fees allowed pursuant to [section 8(2)]; and"

34. Page 6, line 20.

Strike: "a significant"

Insert: "an"

35. Page 6, line 25 through line 26.

Strike: "prior" on line 25 through "plan" on line 26

36. Page 6, line 28.

Strike: "or employees"

37. Page 6, line 29 through page 7, line 1.

Strike: "At" on page 6, line 29 through "work" on page 7, line 1

Insert: "Membership on the advisory committee must include at least one active builder, one active developer, and one active realtor"

38. Page 7, line 4.

Strike: "development of land use assumptions"

Insert: "impact fee program and how it should be coordinated with or guided by land use assumptions created by the growth policy"

39. Page 7, line 7.

Strike: subsection (3)(c) in its entirety

Renumber: subsequent subsections

40. Page 7, line 20.

Following: "shall"

Insert: "conduct and"

Following: "adopt"

Insert: "one or more studies containing all of the elements of this section. Collectively, this information must be known, for the purposes of [sections 1 through 14], as"

41. Page 8, lines 5 and 6.

Strike: "a" on line 5

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Insert: "an appropriate"

Strike: "engineer" on line 5 through "3" on line 6

42. Page 8, line 23 through line 24.

Strike: subsection (3)(m) in its entirety

43. Page 8, line 26.

Strike: "5"

Insert: "10"

Strike: "5-year"

Insert: "10-year"

44. Page 8, line 30.

Following: "available"

Insert: "for review"

45. Page 9, line 8.

Following: "adoption of"

Insert: "or significant update to"

46. Page 9, line 22.

Strike: "subsection"

Insert: "subsections"

Following: "(3)"

Insert: "and (4)"

Following: "exceed"

Insert: "the lesser of \$2.50 a square foot for residential buildings or \$10 a square foot for commercial buildings or"

47. Page 10, line 5.

Following: "(b)"

Insert: "(i)"

48. Page 10, line 7.

Following: "if"

Insert: ": (A)"

49. Page 10, line 9.

Following: "area"

Strike: "." through "[section 12]."

Insert: "; or

(B) the developer and the governing body agree to an assessment of system improvement costs outside of the areas authorized under subsection (3)(a).

(ii) The written demonstration provided for in subsection (3)(b)(i) is subject to appeal under [section 12]."

50. Page 10, line 11.

Strike: "full-cost"

51. Page 10, line 13.

Strike: "an independent and neutral"

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Insert: "a qualified"

52. Page 10.

Following: line 13

Insert: "(5) The amounts per square foot for residential and commercial buildings provided in subsection (2) may be adjusted annually for inflation."

53. Page 10, line 16 through line 17.

Strike: ":" on line 16 through "(i)" on line 17

Strike: "contribution or dedication of land or" on line 17

Insert: "for"

54. Page 10, line 19 through line 21.

Strike: "; and" on line 19 through "development" on line 21

55. Page 10, line 25.

Strike: "developer's"

Insert: "local government's"

56. Page 11, lines 11 and 12.

Strike: "include in its" on line 11

Insert: "prepare an audited"

Strike: ", " on line 11 through "report" on line 12

57. Page 11, lines 14 and 15.

Strike: "expended" in both places

Insert: "obligated" in both places

58. Page 11, line 24.

Following: "not"

Insert: "obligated or"

59. Page 12, line 4 through line 9.

Strike: subsection (4) in its entirety

60. Page 12, line 11.

Strike: "-- mediation"

61. Page 12, line 17.

Strike: "illegally"

Insert: "improperly"

62. Page 12, line 18 through page 13, line 2.

Strike: "(c)" on page 12, line 18 through "section." on page 13, line 2

63. Page 13, line 21.

Following: "plat"

Insert: "in cases when the subdivision occurs after the imposition of the impact fee"

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64. Page 15, line 27 through line 28.

Strike: "except" on line 27 through "streets" on line 28

Insert: "any power to impose an impact fee other than as authorized under [sections 1 through 14]"

65. Page 16, line 5 through page 18, line 14.

Strike: sections 17 and 18 in their entirety

Renumber: subsequent sections

66. Page 19, line 4 through line 12.

Strike: section 20 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

4/1/2003

HB 669, be amended as follows:

1. Title, line 6 through line 8.

Strike: "AUTHORIZING" on line 6 through "APPROVAL;" on line 8

2. Title, line 8.

Strike: "SECTIONS 7-8-4201 AND"

Insert: "SECTION"

3. Page 1, line 12 through line 29.

Strike: section 1 in its entirety

Renumber: subsequent section

4. Page 2, line 2.

Following: "(3),"

Insert: "(6),"

5. Page 2, line 3.

Following: "and"

Strike: "(6)"

Insert: "(7)"

6. Page 3, line 1 through line 3.

Strike: "The" on line 1 through "7-16-2324." on line 3

7. Page 3, line 4 through line 5.

Strike: "or proceeds" on line 4 through "(5)(a)" on line 5

8. Page 3, line 25.

Following: ":",

Insert: "or"

9. Page 3, line 29.

Following: "(1)"

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Strike: " or"
Insert: "."

10. Page 3, line 30.

Strike: "(e)(i)"

Insert: "(7) The local governing body may waive the park dedication requirement if: (a)"

Following: "provides"

Insert: "land outside the subdivision that affords"

11. Page 4, line 2.

Strike: "(ii)"

Insert: "(b)"

Following: "subsection"

Strike: "(6)(e)(i)"

Insert: "(7)(a)"

12. Page 4, line 4.

Strike: "(7)"

Insert: "(8)"

13. Page 4, line 7.

Strike: "(8)"

Insert: "(9)"

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

3/31/2003

HB 569, be concurred in. Report adopted.

HB 734, be amended as follows:

1. Page 2, line 3.

Following: "106-402"

Insert: ", codified at 42 U.S.C. 15001, et seq"

2. Page 3, line 3.

Following: line 2

Insert: "(2) In addition to the members appointed under subsection (1), the council must include one member of the senate and one member of the house of representatives."

Renumber: subsequent subsections

3. Page 3, line 3.

Following: "(2)"

Insert: "(a) Except as provided in subsection (3)(b), members of the council serve 1-year terms."

4. Page 3, line 4.

Strike: "The" through "of"

Insert: "(b) Of"

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Following: "members"

Insert: "described in 42 U.S.C. 15025(b)(3)"

5. Page 3, line 5.

Following: the second "disabilities"

Insert: ", the governor shall appoint: (i) not less than one-half of the members"

6. Page 3, line 7.

Following: "governor"

Insert: ";

Following: "and"

Insert: "(ii)"

7. Page 3, line 8.

Strike: "one-half of the"

And, as amended, be concurred in. Report adopted.

HJR 29, be amended as follows:

1. Page 2, line 27.

Following: "That"

Insert: "the 58th Legislature encourages"

Strike: "shall"

2. Page 2, line 28.

Following: "Services"

Insert: "and when practical, appropriate, and safe"

Following: ";

Insert: "to"

3. Page 3, line 2.

Following: "Governor"

Insert: ", the Chief Justice of the Montana Supreme Court,"

And, as amended, be concurred in. Report adopted.

HJR 31, be amended as follows:

1. Page 1, line 28.

Following: "families"

Insert: ", including Native American families,"

2. Page 2, line 6.

Following: "(5)"

Strike: "not" through "against"

Insert: "for good cause, allow for the reasonable extension of"

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3. Page 2.

Strike: line 7 through line 8 in their entirety

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

4/1/2003

SR 6, be adopted. Report adopted.

HB 203, be amended as follows:

1. Page 4, line 16.

Strike: "28 counties"

Insert: "one-half of the counties"

2. Page 7, line 19.

Strike: "28 counties"

Insert: "one-half of the counties"

And, as amended, be concurred in. Report adopted.

HB 213, be amended as follows:

1. Page 55, line 29.

Following: "pursuant to"

Insert: "15-1-122(3)(e),"

2. Page 55, line 30.

Following: "61-3-527(4)(b)"

Insert: ", "

3. Page 75, line 5.

Strike: "(2)(b)"

Insert: "(2)(a)"

4. Page 93, line 3.

Following: the first credit"

Insert: "and membership service"

And, as amended, be concurred in. Report adopted.

HB 689, be amended as follows:

1. Title, page 1, line 4 through line 7.

Following: "LOBBYING" on line 4

Insert: "REGISTRATION AND REPORTING BY PRINCIPALS"

Strike: "REVISING" on line 4 through "INFLATION;" on line 7

Strike: "5-7-102," on line 7

Following: "5-7-103"

Strike: ", "

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2. Title, page 1, line 8.

Strike: "AND" through "DATE"

3. Page 1, line 12 through page 4, line 11.

Strike: section 1 in its entirety

4. Page 4, line 19.

Following: "lobbyist"

Insert: "except as provided in subsection (5) or"

5. Page 5.

Following: line 1

Insert: "(5) A lobbyist who receives payments from one or more principals that total less than \$2,150 in a calendar year is not required to pay the license fee or file an application form as provided for in subsection (1)."

Renumber: subsequent subsection

6. Page 5, line 2.

Strike: "subsection (1)"

Insert: "subsections (1) and (5)"

7. Page 5, line 7.

Strike: "the threshold" through "[section 4]"

Insert: "\$2,150 to a lobbyist"

8. Page 5.

Following: line 29

Insert: "(iv) travel expenses;"

Renumber: subsequent subsections

9. Page 5, line 30.

Following: "and"

Insert: "and"

10. Page 5, line 30 through page 6, line 2.

Strike: ", and payments" on page 5, line 30 through "5-7-102(12)(b)(iii)" on page 6, line 1

11. Page 6, lines 7 and 8.

Strike: "legislator" on line 7 through "or" on line 8

12. Page 6, line 9 through line 10.

Strike: "legislator" on line 9 through "or" on line 10

13. Page 6, line 21 through line 27.

Strike: section 4 in its entirety

Renumber: subsequent sections

14. Page 7, line 6 through line 7.

Strike: section 7 in its entirety

Renumber: subsequent sections

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15. Page 7, line 14 through line 16.

Strike: section 10 in its entirety

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 28, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 81** sponsored by Senator Cooney, **Senate Bill 190** sponsored by Senator Bohlinger et al., and **Senate Bill 202** sponsored by Senator Johnson et al. on March 28, 2003.

Sincerely,

JUDY MARTZ
Governor

March 31, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 23** sponsored by Senator Butcher et al., **Senate Bill 26** sponsored by Senator Bohlinger, **Senate Bill 36** sponsored by Senator Grimes, **Senate Bill 70** sponsored by Senator McNutt, **Senate Bill 117** sponsored by Senator Cobb, **Senate Bill 128** sponsored by Senator Mahlum, **Senate Bill 131** sponsored by Senator Barkus, **Senate Bill 132** sponsored by Senator McNutt, **Senate Bill 160** sponsored by Senator Cobb, **Senate Bill 172** sponsored by Senator McNutt, **Senate Bill 173** sponsored by Senator McNutt, **Senate Bill 238** sponsored by Senator Mangan, and **Senate Bill 257** sponsored by Senator Cooney on March 31, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/31/2003

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SB 66, introduced by Bohlinger
SB 85, introduced by Cocchiarella
SB 97, introduced by Story
SB 149, introduced by Barkus
SB 162, introduced by Story
SB 180, introduced by Ryan
SB 188, introduced by Cocchiarella
SB 211, introduced by Hansen
SB 213, introduced by Nelson
SB 413, introduced by Kitzenberg

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

3/31/2003

SB 13, introduced by Mahlum
SB 57, introduced by Keenan
SB 80, introduced by Laible
SB 126, introduced by Story
SB 159, introduced by Johnson

House bills passed and transmitted to the Senate for concurrence:

3/31/2003

HB 124, introduced by A. Olson
HB 713, introduced by Fuchs

MOTIONS

SB 465 - Senator Tester moved the Senate reconsider it's action in failing to pass **SB 465** on third reading the previous legislative day. Motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 124, introduced by A. Olson, referred to Judiciary.
HB 713, introduced by Fuchs, Balyeat, Jackson, referred to Taxation.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 218 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 464 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 470 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.
Total 32

Nays: Butcher, Cooney, Elliott, Glaser, Grimes, Hansen, Harrington, Laible, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila.
Total 18

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 20, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Butcher, Cobb, Curtiss, Esp.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 283, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 306, requiring 2/3 of entire Legislature, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Cobb.

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Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 337, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Stapleton.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 438 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 481, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 647, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 48

Nays: Pease, Tropila.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 684 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Johnson, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 686 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 47

Nays: Esp, McGee, Stapleton.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 693 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 731 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 45

Nays: Bales, Esp, Story, Zook, Mr. President.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:50 p.m. this day for purpose of party caucuses. Motion carried.

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Senate recessed at 1:22 p.m.
Senate reconvened at 2:02 p.m.

Roll call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):

4/1/2003

SB 481, introduced bill, be amended as follows:

1. Page 4, line 12.

Insert: "NEW SECTION. **Section 4. Coordination instruction.** If Senate Bill No. 422 is not passed and approved, then [this act] is void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

HB 553, be amended as follows:

1. Page 4, line 9.

Following: "PERSON"

Insert: "purposely or knowingly"

2. Page 4, line 10.

Following: "(1)"

Strike: "PURPOSELY OR KNOWINGLY"

Following: "KILLS"

Insert: "or inflicts cruelty to"

3. Page 5, line 6.

Following: "SEIZURE;"

Strike: "OR"

4. Page 5, line 7.

Following: "ANIMALS"

Insert: "; or

(d) retention of the animal in a humane animal treatment shelter"

And, as amended, be concurred in. Report adopted.

HB 648, be amended as follows:

1. Title, line 9.

Strike: "120"

Insert: "30"

Following: "TIME OF"

Strike: "RECEIVING"

Insert: "HARVESTING OR COLLECTING"

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2. Page 2, line 27.

Strike: "120"

Insert: "30"

Following: "time of"

Strike: "receiving"

Insert: "harvesting or collecting"

And, as amended, be concurred in. Report adopted.

HB 677, be amended as follows:

1. Title, line 6.

Strike: "ADMINISTRATIVE"

Insert: "CIVIL"

2. Page 3, line 8.

Following: "subject to"

Strike: "an administrative penalty assessed by the district"

Insert: "a civil penalty"

3. Page 3, line 10.

Following: "maximum"

Strike: "administrative"

Insert: "civil"

4. Page 3, line 11.

Following: "3-10-301."

Insert: "A conservation district may work with a person who is subject to a civil penalty to resolve the amount of the penalty prior to initiating an enforcement action in justice's court to collect a civil penalty."

5. Page 3, line 12.

Following: "or"

Strike: "an administrative"

Insert: "a civil"

6. Page 3, line 18 through line 19.

Strike: "an" on line 18 through "administrative" on line 19

Insert: "a civil"

7. Page 3, line 19.

Following: "76-15-523"

Insert: ", unless upon order of a justice's court the money is directed to be deposited pursuant to 3-10-601"

And, as amended, be concurred in. Report adopted.

HB 720, be amended as follows:

1. Title, line 9.

Following: "~~30~~ DAYS"

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Strike: "THE TIME PERIOD SPECIFIED BY DEPARTMENT RULE"
Insert: "180 DAYS"

2. Title, line 9 through line 12.

Strike: "PROVIDING" on line 9 through "PURPOSES;" on line 12

3. Title, line 12.

Strike: "SECTIONS"

Insert: "SECTION"

4. Title, line 13.

Strike: "AND 85-2-308"

5. Page 1, line 21 through line 22.

Strike: "ESTABLISHING" on line 21 through "RULES" on line 22

6. Page 2, line 1 through line 2.

Following: "within" on line 1

Strike: remainder of line 1 through "SUBSECTION (2)" on line 2

Insert: "180 days"

7. Page 2, line 4.

Strike: "THE" through "SUBSECTION (2)"

Insert: "180 days"

8. Page 2, line 14 through page 3, line 9.

Strike: section 2 in its entirety

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

3/31/2003

HB 604, be amended as follows:

1. Title, page 1, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-36-324"

Insert: "AND 20-9-544"

2. Page 3, line 26.

Following: "20-9-542"

Insert: "for distribution in the ensuing fiscal year"

3. Page 3, line 30.

Following: "20-9-542"

Insert: "for distribution in the ensuing fiscal year"

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4. Page 9, line 1.

Following: "20-9-542"

Insert: "for distribution in the ensuing fiscal year"

5. Page 11, line 20.

Following: line 19

Insert: "**Section 2.** Section 20-9-544, MCA, is amended to read:

"20-9-544. District school flexibility fund levy. (1) In addition to the money allocated in 20-9-542 for a district's school flexibility fund, the trustees of a school district may submit a proposition to the qualified electors of the district to approve a levy for the ensuing school year in an amount not to exceed 25% of the district's current year allocation in 20-9-542 to fund the school flexibility fund authorized under 20-9-543. An election called pursuant to this section must be called and conducted in the manner prescribed by this title for school elections. The ballot for a proposition must provide "FOR" and "AGAINST" provisions, stating whether the district is authorized to impose a levy of (state the dollars) dollars and (state the approximate number of mills) mills to fund the school flexibility fund in the school district. The school flexibility fund proposition is approved if a majority of those electors voting at the election approve the levy.

(2) Money collected from the levy must be deposited in the district's school flexibility fund and spent in accordance with 20-9-543.""

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

MOTIONS

SB 407 - Senator Thomas moved consideration of **SB 407** be placed at the top of the second reading board this legislative day. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Shea, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laible in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading,

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recommend as follows:

SB 407 - Senator DePratu moved **SB 407** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise. Motion carried. Committee arose. Senate resumed.

MOTIONS

SB 488 - Senator Ellingson moved he be allowed to add Senator Bohlinger as sponsor to **SB 488**. Motion carried.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SJR 29**.

Correctly engrossed: **SB 297, HB 105, HB 410, HB 577, HB 642**.

FINANCE AND CLAIMS (Zook, Chairman):

4/1/2003

HB 6, be concurred in. Report adopted.

HB 8, be concurred in. Report adopted.

HB 363, be amended as follows:

1. Title, line 9.

Following: "MONEY"

Insert: "IN EXCESS OF THE ADEQUATE FUNDING AMOUNT"

2. Page 2, line 17 through line 19.

Following: "FUND" on line 17

Strike: remainder of line 17 through "REDUCTIONS" on line 19

3. Page 2, line 20.

Following: "2004,"

Strike: "THE"

Insert: "an"

Following: "AMOUNT"

Strike: "OF"

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Insert: "up to"
Following: "MILLION"
Insert: "in available excess funds from fiscal year 2003"

4. Page 2, line 21.
Following: "2005."
Strike: "THE"
Insert: "an"
Following: "AMOUNT"
Strike: "OF"
Insert: "up to"
Following: "MILLION"
Insert: "in available excess funds from fiscal year 2004"

5. Page 2, line 22.
Following: "YEARS"
Strike: "2003."
Following: "2004"
Strike: " "
Following: "2005."
Strike: "the"
Insert: "any"

6. Page 2, line 24.
Following: "(4)"
Insert: ", based on audited financial statements adjusted for unrealized gains and losses,"

7. Page 2, line 24 through line 26.
Following: "transferred to the" on line 24
Strike: remainder of line 24 through "million" on line 26
Insert: "general fund"

8. Page 3, line 7 through line 10.
Following: "39-71-2352(4)" on line 7
Strike: remainder of line 7 through "remainder" on line 10

And, as amended, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):
HB 141, be amended as follows:

4/1/2003

1. Page 1, line 17.
Following: "(2)"
Insert: "(a)"
Strike: "A"
Insert: "Except as provided in subsection (2)(b), a"

2. Page 1, line 20.

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Following: line 19

Insert: "(b) A person convicted of an offense of fleeing from or eluding a peace officer during which the person causes serious bodily injury to or the death of any other person shall be imprisoned for a term not to exceed 10 years or fined an amount not to exceed \$10,000, or both."

3. Page 3, line 15.

Following: "subsection"

Strike: "(3)"

Insert: "(2)"

And, as amended, be concurred in. Report adopted.

HB 247, be amended as follows:

1. Page 3, line 2.

Following: "FROM"

Strike: "LOITERING"

Insert: "remaining"

And, as amended, be concurred in. Report adopted.

HB 358, be amended as follows:

1. Title, page 1, line 6 through line 8.

Strike: "FIRST-CLASS" on line 6 through "COURTS" on line 8

Insert: "A COUNTY TO ESTABLISH A JUSTICE'S COURT AS A COURT OF RECORD"

2. Title, page 1, lines 9, 10, and 13.

Strike: "COUNTY COURT"

Insert: "JUSTICE'S COURT ESTABLISHED AS A COURT OF RECORD"

3. Page 1, line 25.

Page 3, lines 15 and 16.

Page 4, lines 10 and 13.

Page 5, lines 4 and 27.

Strike: "county court"

Insert: "justice's court established as a court of record"

4. Page 3, line 23.

Strike: "county court"

Insert: "justice's court established as court of record"

5. Page 4, line 8.

Strike: "In" through "20,000 the"

Insert: "A"

6. Page 6, line 25.

Strike: "county court"

Insert: "justice's court established as court of record"

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7. Page 6, line 26.

Page 7, lines 3 and 5.

Strike: "county court"

Insert: "justice's court established as a court of record"

8. Page 7, line 7.

Strike: "county court"

Insert: "justice's court established as court of record"

9. Page 7, lines 8, 9, 10, and 12.

Strike: "county court"

Insert: "justice's court established as a court of record"

10. Page 7, line 15.

Strike: "county court"

Insert: "justice's court established as court of record"

11. Page 7, lines 16, 20, 26, and 29.

Page 8, end of line 1 and beginning of line 2.

Strike: "county court"

Insert: "justice's court established as a court of record"

12. Page 8, lines 14 and 22.

Strike: "county court"

Insert: "court of record"

13. Page 8, line 30.

Strike: "county court"

Insert: "justice's court established as a court of record"

14. Page 9, lines 5, 6, and 7.

Strike: "county court"

Insert: "justice's court established as a court of record"

And, as amended, be concurred in. Report adopted.

HB 404, be amended as follows:

1. Title, line 4.

Following: ""AN ACT"

Strike: "REQUIRING"

Insert: "ALLOWING"

2. Title, line 7.

Strike: "PRIVATE"

3. Page 1, line 12.

Following: "employer"

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Strike: "shall"

Insert: "may"

4. Page 1, line 24.

Strike: "the reason why and"

Insert: "a statement of"

Following: "individual"

Insert: ": (i)"

5. Page 1, line 25.

Following: "voluntarily"

Insert: ";

Strike: "or"

Insert: "(ii)"

Strike: ", except as provided in 39-2-801"

Insert: "; (iii) resigned after being told that the individual would be fired;
(iv) left by mutual agreement because of specific work-related problems; or
(v) had a termination changed to a resignation by mutual agreement"

6. Page 2, line 7.

Strike: "A private"

Insert: "An"

7. Page 2, line 8 through line 10.

Strike: "is" on line 8 through "45-2-101" on line 10

Insert: "performs an official duty within the meaning of 27-1-804(1)"

8. Page 2, line 14.

Strike: "has the meaning provided"

Insert: "means any state or local agency or subdivision of the state that employs law enforcement officers as defined"

9. Page 2.

Following: line 15

Insert: "(7) This section does not affect any immunity otherwise available under 27-1-804(1) for communications voluntarily made by private or public, current or former employers in the proper discharge of an official duty."

10. Page 2, line 18.

Strike: "7" through "7"

Insert: "39, chapter 2, and the provisions of Title 39, chapter 2,"

And, as amended, be concurred in. Report adopted.

HB 451, be amended as follows:

1. Title, page 1, line 7.

Strike: "AND A TERMINATION DATE"

2. Page 1, line 17.

Strike: "charged or"

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Strike: "another"
Insert: "any"
Following: "state"
Insert: "or U.S. federal"

3. Page 1, line 21.
Following: "RETURNING"
Strike: "THE"
Insert: "an"

4. Page 1, lines 22 through 23.
Strike: "AT LEAST 90 DAYS" on line 22
Following: "RELEASE."
Strike: "The" on line 22 through "withheld." on line 23

5. Page 1, line 27.
Strike: section 3 in its entirety

And, as amended, be concurred in. Report adopted.

HB 579, be concurred in. Report adopted.
HB 701, be amended as follows:

1. Title, line 5 through line 6.
Following: "EXCLUDE" on line 5
Strike: remainder of line 5 through "OFFICE OF" on line 6
Insert: "PERSONAL STAFF OF A JUSTICE, JUDGE, AND"

2. Title, page 6.
Following: "COURT;"
Insert: "PROVIDING THAT A JUSTICE, JUDGE, OR THE CLERK OF THE SUPREME COURT MAY APPOINT UP TO THREE PERSONAL STAFF MEMBERS;"

3. Page 1, line 12.
Following: "(1)"
Insert: "(a)"

4. Page 1, line 14.
Following: "justice."
Strike: "including law clerks and other assistants as designated by the justice."

5. Page 1, line 15.
Following: "judge."
Strike: "including law clerks and other assistants as designated by the judge."

6. Page 1, line 17 through line 18.
Following: "court." on line 17
Strike: remainder of line 17 through "court." on line 18

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7. Page 1, line 22.

Following: line 21

Insert: "(b) The personal staff who are exempted by subsection (1)(a) may not exceed three appointed by each justice or judge, appointed jointly by more than one justice or judge, or appointed by the clerk of the supreme court."

And, as amended, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

4/1/2003

HB 733, be amended as follows:

1. Title, line 8.

Following: "ASSAULT;"

Insert: "ALLOWING A JUDGE TO IMPOSE A TERM OF LESS THAN 4 YEARS UPON A WRITTEN FINDING THAT THERE IS GOOD CAUSE TO DO SO;"

2. Page 1, line 20.

Following: "years"

Insert: ", unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years,"

And, as amended, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

4/1/2003

SB 471, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "IMPOSING"

Insert: "A TAX"

Following: "MONTANA"

Strike: "A TAX"

2. Title, page 1, line 6.

Strike: "OF 62 CENTS A TON"

3. Title, page 1, line 10.

Following: "SYSTEMS;"

Insert: "AUTHORIZING THE ISSUANCE OF STATE LAND DEVELOPMENT REVENUE BONDS FOR STATE-OWNED ELECTRICAL ENERGY TRANSMISSION OR DISTRIBUTION FACILITIES, ELECTRICAL GENERATION FACILITIES, OR RAIL LINE FACILITIES; PLEDGING THE REVENUE FROM STATE-OWNED ELECTRICAL ENERGY TRANSMISSION AND DISTRIBUTION FACILITIES, ELECTRICAL GENERATION FACILITIES, AND RAIL LINE FACILITIES TO THE PAYMENT OF THE STATE LAND DEVELOPMENT REVENUE BONDS; AUTHORIZING THE SALE OF ELECTRICAL ENERGY TRANSMISSION OR DISTRIBUTION FACILITIES, ELECTRICAL GENERATION FACILITIES, AND RAIL LINE FACILITIES;"

4. Page 1, lines 15.

Following: "Energy projects tax"

Insert: "-- exception"

Following: "(1)" on line 15

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Insert: "(a)"

Strike: "62" on line 15

Insert: "the following number of"

5. Page 1, line 16.

Following: the first "ton"

Insert: ", based on the price per ton,"

Following: "state"

Strike: "."

Insert: ":"

Price per ton	Tax in cents per ton
\$3.50 or less	32
3.51 to 4.00	37
4.01 to 4.50	42
4.51 to 5.00	47
5.01 to 5.50	52
5.51 to 6.00	57
6.01 to 6.50	62
6.51 to 7.00	67
7.01 to 7.50	72
7.51 to 8.00	77
8.01 to 8.50	82
8.51 to 9.00	87
9.01 to 9.50	92
9.51 or more	97
(b)"	

6. Page 1, line 26.

Insert: "(3) Coal mined on an Indian reservation and coal owned by an Indian tribe is not subject to the tax imposed by this section."

7. Page 2, line 2.

Strike: "year"

Insert: "quarter"

8. Page 5, line 2.

Insert: "NEW SECTION. **Section 13. State electrical generation, transmission, and distribution facilities and rail line facilities.** (1) (a) The department of natural resources and conservation may request the board of examiners to issue state land development revenue bonds pursuant to [sections 13 through 25] for the purpose of establishing and maintaining new state-owned electrical energy transmission or distribution facilities, electrical generation facilities, and rail line facilities associated with state lands.

(b) The state may sell the electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities if the sale is in the state's best interest.

(2) The state land development revenue bonds may be publicly or privately sold, bear interest at rates and times, and mature at times not exceeding 40 years from the date of issuance or not exceeding the useful life of the facility as the board shall determine. The board may issue the bonds pursuant to a resolution or indenture of trust with a financial institution having the powers of a trust company. The resolution or indenture may contain provisions for protecting and enforcing the rights of bondholders that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the state, the board of examiners, or agencies of the state in relation to the acquisition, construction,

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improvements, maintenance, operation, repair, and insurance of the facility financed with the proceeds of the bonds and the custody and application of all money. The trust indenture may set forth the rights and remedies of the bondholders as is customary in trust indentures, deeds of trust, and mortgages securing bonds."

Insert: "NEW SECTION. Section 14. State land development revenue bond authorization. (1) The board of examiners may issue and sell state land development revenue bonds in an aggregate principal amount not to exceed \$740 million for the purposes authorized in [section 13]. The bonds are revenue obligations in which the net revenue from state-owned electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities is pledged for payment of the principal and interest on the bonds. The bonds are not and may not be considered to be a general obligation or debt of the state. The board may issue the bonds in accordance with the applicable provisions contained in 17-5-921 through 17-5-930.

(2) The proceeds of the state land development revenue bonds, other than any premiums and accrued interest received, must be deposited in an account in the state special revenue fund. Premiums and accrued interest must be deposited in the debt service fund established in 17-2-102. Proceeds of bonds deposited in the account may be used to pay the costs of issuing the bonds and to fulfill the purposes authorized in [section 13]. For the purposes of 17-5-803 and 17-5-804, the account constitutes a capital projects account. The bond proceeds must be available to the department of natural resources and conservation and may be used for the purposes authorized in this section without further budgetary authorization.

(3) In authorizing the sale and issuance of the state land development revenue bonds, the board, upon request of the department of administration, may create separate accounts or subaccounts to provide for the payment and security of the bonds, including a debt service reserve account. The net revenue from the electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities must be pledged to these accounts."

Insert: "NEW SECTION. Section 15. Use of state land development revenue bond proceeds. The department of natural resources and conservation shall use the proceeds of the state land development revenue bonds authorized in [section 14] to design and build new state-owned electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities, to pay capitalized interest during construction, to fund a debt service reserve, and to pay costs associated with the sale and security of the bonds."

Insert: "NEW SECTION. Section 16. Interagency cooperation. (1) State agencies shall cooperate with the department of natural resources and conservation in the permitting or construction of electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities.

(2) Within the limits of available resources, state agencies shall provide scientific, economic, and other relevant data requested by the department of natural resources and conservation."

Insert: "NEW SECTION. Section 17. Pledge. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of the state land development bonds issued by the state."

Insert: "NEW SECTION. Section 18. Bond anticipation notes -- issued when -- payment of principal and interest. (1) The board of examiners may, pending the issuance of bonds under [sections 13 through 25], issue temporary notes in anticipation of the proceeds to be derived from the sale of the bonds, designated as "bond anticipation notes". The proceeds of the sale of the bond anticipation notes may be used only for the purpose for which the proceeds of the bonds could be used, including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary or desirable to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. A renewal of any note may not be issued after the sale of bonds in anticipation of which the original notes were issued.

(2) Bond anticipation notes or other short-term evidences of indebtedness maturing not more than 3 years after the date of issue may be issued from time to time as the proceeds of the notes are needed. The notes must be authorized by the board and have terms and provisions as may be provided by resolution of the board. However, each resolution of the board authorizing notes must:

- (a) describe the need for the proceeds of the notes to be issued; and
- (b) specify the principal amount of the notes or maximum principal amount of the notes that may be outstanding at any one time, the rate or rates of interest or maximum rate of interest or interest rate formula of the notes to be determined in the manner specified in the resolution authorizing the notes, and the maturity date or maximum maturity

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date of the notes.

(3) Subject to the limitations contained in this section and the standards and limitations prescribed in the authorizing resolution, the board in its discretion may provide for the notes described in subsection (2) to be issued and sold, in whole or in part, from time to time, and may delegate to the state treasurer the power to determine the time or times of sale, the manner of sale, the amounts, the maturities, the rate or rates of interest, and other terms and details of the notes that may be considered appropriate by the board or, if there has been a delegation, by the state treasurer. The board may, in its discretion but subject to the limitations contained in this section, provide in the resolution authorizing the issuance of notes for:

- (a) the employment of one or more persons or firms to assist the board in the sale of the notes;
- (b) the appointment of one or more banks or trust companies, either inside or outside the state, as depository for safekeeping and as agent for the delivery and payment of the notes;
- (c) the refunding of the notes, from time to time, without further action by the board, unless and until the board revokes the authority to refund; and
- (d) other terms and conditions as the board may consider appropriate."

Insert: "NEW SECTION. Section 19. Form -- principal and interest -- fiscal agent -- bonds authorized. (1) Each series of state land development revenue bonds may be issued by the board of examiners at public or private sale, in denominations and form, whether payable to the bearer or registered as to principal or both principal and interest, with provisions for the conversion or exchange, bearing interest at a rate or rates or the method of determining the rate or rates, maturing at times, not more than 40 years from the date of issue, subject to redemption at earlier times and prices and upon notice, and payable at the office of a fiscal agency of the state as the board shall determine, subject to the limitations contained in [sections 13 through 25]. Any action taken by the board under [sections 13 through 25] must be approved by at least a majority vote of its members.

(2) In all other respects, the board is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment.

(3) Bonds and any interest coupons appurtenant to the bonds must be signed by the members of the board, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds issued and sold.

(4) The board may employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under [sections 13 through 25].

(5) In connection with the issuance and sale of bonds, the board may arrange for lines of credit or letters of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for bonds issued pursuant to [sections 13 through 25]. Amounts drawn on lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing terms and conditions that the board may authorize in the resolution approving the notes.

(6) No more than \$740 million of bonds issued under [sections 13 through 25] may be outstanding at any time. Additional bonds, other than refunding bonds, may not be issued until the pledge in favor of the bonds is satisfied and discharged."

Insert: "NEW SECTION. Section 20. Trust indenture. In the discretion of the board of examiners, bonds issued under [sections 13 through 25] may be secured by a trust indenture by and between the board and a trustee, which may be any trust company or bank having the powers of a trust company inside or outside of the state. Each trust indenture or an executed counterpart of the indenture must be filed in the office of the secretary of state. The filing of a trust indenture or an executed counterpart of the indenture in the office of the county clerk and recorder of the county in which the property covered by the trust indenture is located is constructive notice of its content to all persons from the time of filing, and the recording of the trust indenture or its content is not necessary."

Insert: "NEW SECTION. Section 21. Personal liability -- suit to compel performance. (1) The members of the board of examiners and officers and employees of the departments, boards, or agencies of state government are not personally liable or accountable by reason of the issuance of or on any bond issued by the board under [sections 13 through 25].

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(2) Any holder of bonds issued under [sections 13 through 25] or any person or officer who is a party in interest, subject to any applicable agreements or trust indentures, may sue to enforce and compel the performance of the bond provisions as established in [sections 13 through 25]."

Insert: "NEW SECTION. Section 22. Negotiability of bonds. Bonds issued under [sections 13 through 25] are negotiable instruments under the Uniform Commercial Code, subject only to the provisions for registration of bonds."

Insert: "NEW SECTION. Section 23. Signatures of board members. In case any member of the board of examiners whose signature appears on bonds or coupons issued under [sections 13 through 25] ceases to be a member before the delivery of the bonds, the member's signature is valid and sufficient for all purposes as if the member had remained in office until delivery."

Insert: "NEW SECTION. Section 24. Refunding obligations. (1) The board of examiners may provide for the issuance of refunding obligations for refunding any obligations then outstanding that have been issued under [sections 13 through 25], including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of refunding obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of [sections 13 through 25] that relate to the issuance of the obligations.

(2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding obligations issued under [sections 13 through 25]. The proceeds may be applied to the purchase, redemption, or payment of the outstanding obligations. Pending the application of the proceeds of refunding obligations, with other available funds, to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and, if permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of interest on refunding obligations and expenses in connection with refunding, the proceeds may be invested as provided in Title 17, chapter 6."

Insert: "NEW SECTION. Section 25. Tax exemption of bonds -- legal investments. (1) All bonds issued under [sections 13 through 25], their transfer, and their income, including any profits made on their sale, are exempt from taxation by the state or any political subdivision or other instrumentality of the state, except for estate taxes.

(2) Bonds issued under [sections 13 through 25] are legal investments for any person or board charged with investment of public funds and are acceptable as security for any deposit of public money."

Renumber: subsequent sections

9. Page 5, line 8.

Insert: "(3) [Sections 13 through 25] are intended to be codified as an integral part of Title 17, chapter 5, and the provisions of Title 17, chapter 5, apply to [sections 13 through 25]."

And, as amended, do pass. Report adopted.

SB 472, do pass. Report adopted.

SB 484, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "ZONES;"

Insert: "AND"

2. Title, page 1, line 8 through line 10.

Strike: "; AUTHORIZING" on line 8 through "MCA" on line 10

3. Page 1, line 17.

Following: the first "credits"

Strike: ","

Insert: "and"

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Strike: ", and lower property tax payments"

4. Page 2, line 18 through line 19.

Strike: ", must have a population of at least 1,000 persons"

5. Page 2, line 20.

Following: "mile;"

Insert: "and"

6. Page 2, line 27 through line 28.

Strike: "An" on line 27 through "." on line 28

7. Page 3, line 4.

Following: "volume;"

Insert: "and"

8. Page 3, line 12.

Following: "business;"

Insert: "and"

9. Page 3, line 30 through page 4, line 4.

Strike: section 6 in its entirety

ReNUMBER: subsequent sections

10. Page 5, line 15 through page 7, line 9.

Strike: section 10 in its entirety

ReNUMBER: subsequent sections

11. Page 7, line 14 through line 15.

Strike: subsection (2) in its entirety

ReNUMBER: subsequent subsections

12. Page 7, line 16.

Strike: "7"

Insert: "6"

13. Page 7, line 17.

Strike: "7"

Insert: "6"

14. Page 7, line 18.

Strike: "8"

Insert: "7"

15. Page 7, line 19.

Strike: "8"

Insert: "7"

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16. Page 7, line 20.

Strike: "9"

Insert: "8"

17. Page 7, line 21.

Strike: "9"

Insert: "8"

And, as amended, do pass. Report adopted.

SB 487, introduced bill, be amended as follows:

1. Title, line 10.

Strike: "AN IMMEDIATE"

Following: "EFFECTIVE"

Strike: remainder of line 10 through "APPLICABILITY DATE"

Insert: "DATES"

2. Page 4, line 20.

Strike: "date"

Insert: "dates"

Following: "date."

Insert: "(1)"

Strike: "[This act] is"

Insert: "[Sections 2, 3, and 6 and this section] are"

3. Page 4, line 21.

Following: line 20

Insert: "(2) [Sections 1 and 4] are effective July 1, 2005."

And, as amended, do pass. Report adopted.

SB 488, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: "55"

Insert: "50"

2. Page 5, line 19.

Following: "quarter,"

Insert: "97.23% of"

3. Page 5, line 20.

Following: "facility."

Insert: "An amount equal to 2.77% of the gross receipts may be retained by the owner or operator as an administrative allowance for the collection of the tax."

4. Page 6, line 2.

Strike: "Fifty-five"

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Insert: "Fifty"

5. Page 7, line 18.

Strike: "Fifty-five"

Insert: "Fifty"

6. Page 15, line 16.

Strike: "\$10"

Insert: "\$20"

7. Page 16, line 29 through line 30.

Strike: "to" on line 29 through "193]" on line 30

Insert: "on a total per-educator entitlement pursuant to subsection (3)"

8. Page 17, line 4.

Insert: "(3) (a) The state shall provide a total per-educator entitlement of the funds allocated in subsection (2)(a) to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; and

(iv) state youth correctional facilities, as defined in 41-5-103.

(b) A special education cooperative that has not met the requirements of 20-7-453 and 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(4) The total per-educator entitlement for special education cooperatives, the Montana school for the deaf and blind, and state youth correctional facilities under subsection (3) must be calculated and distributed directly to those entities by the superintendent of public instruction."

And, as amended, do pass. Report adopted.

SJR 29, be adopted. Report adopted.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Wednesday, April 2, 2003. Motion carried.

Senate adjourned at 3:11 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTIETH LEGISLATIVE DAY**

Helena, Montana
April 2, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Kitzenberg, excused. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-ninth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Examined by the sponsor and found to be correct: **SB 206**.

Signed by the President at 2:14 p.m., March 31, 2003: **SB 206**.

Signed by the Secretary of the Senate at 2:15 p.m., March 31, 2003: **SB 206**.

Signed by the Speaker at 3:15 p.m., March 31, 2003: **SB 206**.

Delivered to the Governor for approval at 7:45 a.m., April 2, 2003: **SB 206**.

FINANCE AND CLAIMS (Zook, Chairman):
SB 474, introduced bill, be amended as follows:

4/1/2003

1. Page 1, line 25.

Following: "Code"

Strike: ", and"

Insert: ". The term"

Following: "includes"

Insert: "the following items that the department may consider"

2. Page 2, line 24.

Following: "."

Insert: "The rules may provide for reinsurance pursuant to Title 33, chapter 2, part 12, and for a pharmacy benefits manager."

3. Page 2, line 26.

Following: "."

Insert: "The private insurer must be licensed to do business in Montana and is subject to regulation under Title 33."

4. Page 3, line 18.

Strike: "retail"

Following: "pharmacist."

Insert: "The rates negotiated by the department or its representative for the prescription drugs sold by the pharmacies that agree to participate in this program may not be more than the rates charged to the department under the state plan for medicaid."

5. Page 3, line 23.

Strike: "has been"

Insert: "is"

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Strike: "for at least 1 year immediately preceding "
Insert: "on"

6. Page 3, line 25.

Strike: "benefit"
Insert: "premium"

7. Page 3, lines 27 and 28.

Strike: "99%" on line 27
Insert: "129%"
Following: "100% of the" on line 27
Strike: remainder of line 27 through "benefit" on line 28
Insert: "premium amount"

8. Page 3, lines 29 and 30.

Strike: "100%" on line 29
Insert: "130%"
Strike: "124%" on line 29
Insert: "174%"
Following: "level," on line 29
Strike: remainder of line 29 through "benefit" on line 30
Insert: "80% of the premium amount"

9. Page 4, lines 1 through 10.

Strike: "125%" on line 1
Insert: "175%"
Strike: "129%" on line 1
Insert: "199%"
Following: "level," on line 1
Strike: remainder of line 1 through "benefit" on line 10
Insert: "60% of the premium amount"

10. Page 4, lines 12 and 13.

Strike: "99%" on line 12
Insert: "129%"
Following: "100% of the" on line 12
Strike: remainder of line 12 through "benefit" on line 13
Insert: "premium amount"

11. Page 4, lines 14 and 15.

Strike: "100%" on line 14
Insert: "130%"
Strike: "124%" on line 14
Insert: "174%"
Following: "level," on line 14
Strike: remainder of line 14 through "benefit" on line 15
Insert: "80% of the premium amount"

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12. Page 4, lines 16 through 25.

Strike: "125%" on line 16

Insert: "175%"

Strike: "129%" on line 16

Insert: "199%"

Following: "level," on line 16

Strike: remainder of line 16 through "benefit" on line 25

Insert: "60% of the premium amount"

13. Page 5, line 4.

Strike: "base"

14. Page 5, line 13.

Following: "program."

Insert: "(5)"

Renumber: subsequent subsections

15. Page 5, line 14.

Following: "program."

Insert: "The department may not implement the program while an application for a federal waiver is pending. The department shall implement the program upon approval of a federal waiver. If a federal waiver is denied, the department shall implement the program using available state funds."

16. Page 5, line 23.

Strike: "(6)(a)"

Insert: "(7)(a)"

17. Page 13, line 12.

Following: "3]"

Insert: "during each fiscal year of the biennium beginning July 1, 2003"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

April 1, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 83** sponsored by Senator McGee, **Senate Bill 108** sponsored by Senator McNutt, **Senate Bill 139** sponsored by Senator Shea, and **Senate Bill 151** sponsored by Senator Mahlum on April 1, 2003.

Sincerely,

STATE INTERNET/BBS COPY

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JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 4/2/2003

SB 22, introduced by Nelson
SB 101, introduced by Mahlum
SB 133, introduced by Zook
SB 145, introduced by Bohlinger

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 4/1/2003

SB 34, introduced by Barkus
SB 76, introduced by Schmidt

House bill passed and transmitted to the Senate for concurrence: 4/1/2003

HB 748, introduced by Devlin

MOTIONS

SB 471 - Senator Thomas moved consideration of SB 471 be passed for the day. Motion carried.

SB 472 - Senator Thomas moved consideration of SB 472 be passed for the day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 30, introduced by Taylor, referred to Agriculture, Livestock and Irrigation.

The following House bill was introduced, read first time, and referred to committee:

HB 748, introduced by Devlin, Bales, Forrester, Gebhardt, Hedges, Kitzenberg, Lambert, Lindeen, Maedje, Mangan, McCarthy, McNutt, Nelson, A. Olson, Pattison, Shea, Smith, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McNutt assumed the chair in the absence of Senator Grimes who was presenting a bill in committee.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

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Senator Kitzenberg present at this time.

HB 253 - Senator Cooney moved **HB 253** be concurred in. After discussion, Senator Cooney made a **substitute motion** that **HB 253**, second reading copy, be amended as follows:

1. Page 2, line 18.

Following: "about"

Strike: "a"

Insert: "another"

2. Page 2, line 21.

Following: the second "the"

Insert: "other"

3. Page 2, line 27.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

Amendment **adopted** unanimously.

Senator Grimes assumed the chair.

HB 253 - Senator Cooney moved consideration of **HB 253** and **HB 468** be moved to the bottom of the board for purpose of obtaining information. Motion carried unanimously.

SB 461 - Senator Story moved **SB 461** do pass. After discussion, Senator Story made a **substitute motion** that **SB 461**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Following: "~~DWELLINGS~~;"

Insert: "PROVIDING FOR A HOMESTEAD EXEMPTION FOR PRIMARY DWELLINGS THAT ARE OWNER-OCCUPIED FOR AT LEAST 7 MONTHS A YEAR; ALLOWING AN ELECTION OF A DWELLING IF THE OWNER OF A HOMESTEAD HAS OTHER DWELLINGS; CREATING A CLASS ELEVEN FOR PROPERTY TAXATION THAT CONSISTS OF HOMESTEAD PROPERTY;"

2. Title, page 1, line 10.

Strike: "RESIDENCES"

Insert: "CERTAIN HOMESTEADS"

3. Title, page 1, line 11.

Following: "FOUR"

Insert: "AND CLASS ELEVEN"

4. Title, page 1, line 13.

Strike: "AND COMMERCIAL AND INDUSTRIAL PROPERTY"

5. Title, page 1, line 15.

Following: "SECTIONS"

Insert: "5-2-301, 7-13-2527,"

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6. Title, page 1, line 16.

Following: "~~15-6-138,~~"

Insert: "15-6-138, 15-6-191,"

Strike: "AND"

Insert: "15-7-103,"

Following: "~~15-8-111,~~"

Insert: "15-8-111, AND 15-16-102,"

7. Page 2.

Following: line 6

Insert: "NEW SECTION. Section 1. Homestead. (1) "Homestead", for the purposes of property taxation, means the owner-occupied dwelling used as the primary dwelling place of the owner. The primary dwelling place is the single place where an individual has a fixed and permanent home and principal establishment and to which whenever the individual is absent the individual has the intention of returning. The homestead may be occupied by any members of the owner's household as their home. The homestead includes appurtenant land not exceeding 5 acres owned or under contract for deed and that is reasonably necessary for the use of the dwelling as a home.

(2) (a) To qualify as a homestead, the property must have been the owner's primary dwelling place on January 1 of the year for which the claim is made and for at least 7 months during the prior year. If the dwelling was owned by the claimant for less than 1 year, the claimant must have resided in the dwelling for a majority of the time that the claimant owned the dwelling.

(b) A primary dwelling that qualifies as a homestead continues to qualify as a homestead if the claimant resides in a health care facility and the owner does not rent or lease the dwelling to others.

(3) (a) For the purposes of this section, a person is considered an owner if the person:

(i) is the grantor, or the person's spouse is the grantor, of a revocable or irrevocable trust owning the property and is named as a beneficiary of the trust; or

(ii) is a partner of a limited partnership, a member of a limited liability company, or a shareholder of a corporation owning the property and the person holds at least a 5% ownership in the limited partnership, limited liability company, or corporation.

(b) A person claiming ownership under subsection (3)(a) shall provide the department with an affidavit setting forth the reasons the person should be considered the owner of the property, and attached to the affidavit must be copies of the appropriate trust or business entity documents indicating the legal basis for the person's ownership interest.

(4) If a property is a single-family dwelling owned by a business, an occupant who is an employee of the business is considered an owner for the purposes of this section.

(5) (a) An owner shall apply for certification of homestead status to the department not later than a date set by the department by rule. On the application, supplied by the department, the owner shall certify that the owner is making an application for a homestead exemption under this section, that the dwelling is the owner's homestead as established in subsections (1) and (2), and that the owner has not made any other application for the exemption on any other residential property.

(b) A homestead exemption remains in effect as long as the homestead property meets the requirements of subsections (1) and (2).

(c) A homestead exemption expires when ownership of the property changes and the property reverts to class four property.

(6) The owner of a homestead and other residential dwellings may elect to have the homestead exemption apply to the owner's primary dwelling place or any one of the owner's other residential dwellings. The homestead exemption may not apply to a dwelling that the owner rents or leases to others."

Renumber: subsequent sections

8. Page 2, line 10 and line 11.

Strike: "four" on line 10

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Insert: "eleven homestead"

Strike: "DWELLINGS" on line 10 through "ACRES" on line 11

Insert: "property"

9. Page 2, line 12.

Strike: "WITH OWNERS"

Insert: "occupied by households"

10. Page 2, line 22.

Strike: "four"

Insert: "eleven"

11. Page 6, line 6.

Insert: "NEW SECTION. Section 3. Percentage of class four and class eleven property exempt from taxation
-- schedule. The following percentage of the market value of the following described property is exempt from taxation:

(1) for class eleven residential property described in [section 8] that qualifies as homestead property under [section 1]:

- (a) 31.5% for tax year 2003;
- (b) 33.4% for tax year 2004;
- (c) 35.2% for tax year 2005;
- (d) 36.7% for tax year 2006;
- (e) 38.4% for tax year 2007; and
- (f) 40% for tax years after 2007;

(2) for class four rental multifamily dwelling units of two or more units described in 15-6-134(1)(f)(ii):

- (a) 28.9% for tax year 2003;
- (b) 26.8% for tax year 2004;
- (c) 24.7% for tax year 2005;
- (d) 22.6% for tax year 2006;
- (e) 20.5% for tax year 2007; and
- (f) 18.5% for tax years after 2007;

(3) for class four commercial and industrial property described in 15-6-134 that is not provided for in subsection (1) or (2):

- (a) 13.5% for tax year 2003;
- (b) 14.5% for tax year 2004;
- (c) 15.5% for tax year 2005;
- (d) 16.5% for tax year 2006;
- (e) 17.5% for tax year 2007; and
- (f) 18.5% for tax years after 2007."

Insert: "**Section 4.** Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate of an entry grade 10 classified state employee in effect when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

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(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost of living increase to reflect inflation that is calculated pursuant to ~~15-6-134~~ [section 8], or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

- (a) three additional round trips to their place of residence during each regular session; and
- (b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session."

Insert: "Section 5. Section 7-13-2527, MCA, is amended to read:

"7-13-2527. List of property owners. (1) A copy of the order creating the district must be delivered to the department of revenue.

(2) The department shall, on or before August 1 of each year, prepare and certify a list of all persons owning class four and class eleven property within the district and deliver a copy of the list to the board of trustees of the district."

Renumber: subsequent sections

12. Page 6, line 9.

Strike: "AND (1)(AA)"

13. Page 6, line 11.

Strike: "AND (1)(AA)"

14. Page 7, line 6.

Following: "3,"

Insert: "[section 3],"

15. Page 7, line 9.

Strike: "3.40%"

Insert: "3.38%"

16. Page 7, line 14.

Strike: "3.01%"

Insert: "3%"

17. Page 10, line 1.

Insert: "Section 7. Section 15-6-138, MCA, is amended to read:

"15-6-138. (Temporary) Class eight property -- description -- taxable percentage. (1) Class eight property includes:

- (a) all agricultural implements and equipment that are not exempt under 15-6-201~~(1)(bb)~~(1)(aa);

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(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as providers as provided in 15-6-201, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(f) special mobile equipment as defined in 61-1-104;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 3% of its market value.

(5) (a) If, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income, in the last full year for which data is available, is at least 2.85% from the prior year, then the tax rate for class eight property will be reduced by 1% each year until the tax rate reaches zero.

(b) The department shall calculate the percentage growth in subsection (5)(a) by using the formula $(W/CPI) - 1$, where:

(i) W is the Montana wage and salary income for the most current available year divided by the Montana wage and salary income for the year prior to the most current available year; and

(ii) CPI is the consumer price index for the most current available year used in subsection (5)(b)(i) divided by the consumer price index for the year prior to the most current available year as used in subsection (5)(b)(i).

(c) For purposes of determining the percentage growth in subsection (5)(a), the department shall use the wage and salary data series referred to as the bureau of economic analysis of the United States department of commerce Montana wage and salary disbursements. Inflation must be measured by the consumer price index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from taxation. (Repealed on occurrence of contingency--secs. 27(2), 31(4), Ch. 285, L. 1999.)"

Insert: "NEW SECTION. Section 8. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) residential property and land qualifying as a homestead under [section 1];

(b) the first \$100,000 or less of the taxable market value of any homestead improvement on real property,

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including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary dwelling place of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b). For the purposes of this subsection (1)(b), net business income is gross income less ordinary operating expenses.

(2) (a) Except as provided in subsection (2)(b), class eleven property is taxed at the taxable percentage rate applicable to class four property as provided in 15-6-134(2)(a).

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(b) is taxed at the rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
\$0 - \$ 6,000	\$0 - \$8,000	20%
6,001 - 9,200	8,001 - 14,000	50%
9,201 - 15,000	14,001 - 20,000	70%

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

Insert: "Section 9. Section 15-6-191, MCA, is amended to read:

"15-6-191. Application for certain class four eleven classifications. (1) A person applying for classification of property under the property tax assistance program described in ~~15-6-134(1)(c)~~ [section 8(1)(b)] shall make an affidavit to the department of revenue, on a form provided by the department without cost, stating:

(a) the person's income;

(b) the fact that the person maintains the land and improvements as the person's primary residential dwelling, when applicable; and

(c) other information that is relevant to the applicant's eligibility.

(2) This application must be made before March 15 of the year after the applicant becomes eligible. The application remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department may inquire by mail whether any change in eligibility has taken place and may require a new statement of eligibility at any time that it considers necessary.

(3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department. This signed statement must be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing."

"

Renumber: subsequent sections

18. Page 12, line 20.

Strike: "FOLLOWING"

Following: "four"

Strike: "RESIDENTIAL"

Insert: "class four"

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19. Page 12, line 21.

Strike: "(1)(E) AND (1)(F):"

Insert: "and class eleven property described in [section 8] as provided in [section 3];"

20. Page 12, line 29 through page 13, line 12.

Strike: page 12, line 29 through page 13 line 12 in their entirety

21. Page 13, line 13.

Strike: "(BB)"

Insert: "(aa)"

Renumber: subsequent subsections

22. Page 14, line 20.

Strike: "(1)(BB)"

Insert: "(1)(aa)"

23. Page 17, line 20.

Strike: "FOLLOWING"

Following: "four"

Strike: "RESIDENTIAL"

Insert: "class four"

24. Page 17, line 21.

Strike: "(1)(E) AND (1)(F):"

Insert: "and class eleven property described in [section 8] as provided in [section 3];"

25. Page 17, line 29 through page 18, line 12.

Strike: page 17, line 29 through page 18 line 12 in their entirety

26. Page 18, line 13.

Strike: "(BB)"

Insert: "(aa)"

Renumber: subsequent subsections

27. Page 20, line 3.

Strike: "(1)(BB)"

Insert: "(1)(aa)"

28. Page 20, line 16.

Insert: "**Section 11.** Section 15-7-103, MCA, is amended to read:

"15-7-103. Classification and appraisal -- general and uniform methods. (1) It is the duty of the department of revenue to implement the provisions of 15-7-101 through 15-7-103 by providing:

(a) for a general and uniform method of classifying lands in the state for the purpose of securing an equitable and uniform basis of assessment of lands for taxation purposes;

(b) for a general and uniform method of appraising city and town lots;

(c) for a general and uniform method of appraising rural and urban improvements;

(d) for a general and uniform method of appraising timberlands.

(2) All lands must be classified according to their use or uses and graded within each class according to soil and

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productive capacity. In the classification work, use must be made of soil surveys and maps and all other pertinent available information.

(3) All lands must be classified by parcels or subdivisions not exceeding 1 section each, by the sections, fractional sections, or lots of all tracts of land that have been sectionized by the United States government, or by metes and bounds, whichever yields a true description of the land.

(4) All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

(5) In any periodic revaluation of taxable property completed under the provisions of 15-7-111, all property classified in 15-6-134 and [section 8] must be appraised on the taxable portion of its market value in the same year. The department shall publish a rule specifying the year used in the appraisal.

(6) All sewage disposal systems and domestic use water supply systems of all dwellings may not be appraised, assessed, and taxed separately from the land, house, or other improvements in which they are located. In no event may the sewage disposal or domestic water supply systems be included twice by including them in the valuation and assessing them separately."

Renumber: subsequent sections

29. Page 22, line 26.

Insert: "Section 13. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the capitalization of net income method as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

(d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the average wholesale value category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the department shall use a comparable publication or wholesale value category.

(b) for agricultural implements and machinery not listed in an official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide; and

(c) as otherwise authorized in Titles 15 and 61.

(4) For purposes of taxation, assessed value is the same as appraised value.

(5) The taxable value for all property is the percentage of market or assessed value established for each class of property.

(6) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

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(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value minus any portion of market value that is exempt from taxation under 15-6-201(1)(z) ~~and (1)(aa)~~.

(e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

(7) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.""

Insert: "Section 14. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(b) If taxes on property qualifying under the low-income property tax assistance provisions of ~~15-6-134(1)(c)~~ [section 8] and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full taxable years, provided that taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.""

Renumber: subsequent sections

30. Page 23.

Following: line 17

Insert: "(1) [Sections 1 and 3] are intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [sections 1 and 3]."

31. Page 23, line 18.

Following: "(2)"

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Insert: "(2)"

Strike: "[Section 2 1] is"

Insert: "[Sections 2 and 8] are"

32. Page 23, line 19.

Strike: "[section 2 1]"

Insert: "[sections 2 and 8]"

Amendment **adopted** as follows:

Yeas: Anderson, Barkus, Black, Butcher, Cocchiarella, Cromley, Curtiss, DePratu, Gebhardt, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, O'Neil, Perry, Ryan, Shea, Stapleton, Story, Tash, Taylor, Thomas, Wheat, Zook.

Total 28

Nays: Bales, Bohlinger, Cobb, Cooney, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, McNutt, Pease, Roush, Schmidt, Sprague, Squires, Stonington, Tester, Toole, Tropila.

Total 20

Absent or not voting: Mr. President.

Total 1

Excused: Esp.

Total 1

SB 461 - Senator Story moved **SB 461**, second reading copy, be further amended as follows:

1. Page 3, line 2.

Strike: "0.52"

Insert: "0.60"

2. Page 3, lines 5 and 6.

Following: "The" on line 5

Strike: remainder of line 5 through the first "value" on line 6

Insert: "tax liability"

Strike: "0.52"

Insert: "0.60"

3. Page 3, line 16.

Strike: "25%"

Insert: "24%"

4. Page 3, line 18.

Strike: "0.03706"

Insert: "0.03625"

5. Page 3, line 20.

Strike: "0.04041"

Insert: "0.03871"

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6. Page 3, line 22.
Strike: "0.04398"
Insert: "0.04120"

7. Page 3, line 24.
Strike: "0.04783"
Insert: "0.04375"

8. Page 3, line 26.
Strike: "0.05218"
Insert: "0.04651"

9. Page 3, line 28.
Strike: "0.05693"
Insert: "0.04934"

10. Page 4, line 3.
Strike: "0.03741"
Insert: "0.03660"

11. Page 4, line 5.
Strike: "0.04116"
Insert: "0.03943"

12. Page 4, line 7.
Strike: "0.04516"
Insert: "0.04230"

13. Page 4, line 9.
Strike: "0.04948"
Insert: "0.04526"

14. Page 4, line 11.
Strike: "0.05436"
Insert: "0.04845"

15. Page 4, line 13.
Strike: "0.05969"
Insert: "0.05173"

16. Page 4, line 18.
Strike: "0.03777"
Insert: "0.03694"

17. Page 4, line 20.
Strike: "0.04191"
Insert: "0.04015"

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18. Page 4, line 22.

Strike: "0.04633"

Insert: "0.04341"

19. Page 4, line 24.

Strike: "0.05113"

Insert: "0.04677"

20. Page 4, line 26.

Strike: "0.05653"

Insert: "0.05038"

21. Page 4, line 28.

Strike: "0.06244"

Insert: "0.05411"

22. Page 7, line 6.

Following: "section 31."

Insert: "[section 1],"

Amendment **adopted** unanimously.

SB 461 - Senator Elliott moved **SB 461**, second reading copy, be further amended as follows:

1. Page 23, line 9.

Strike: "FROM EACH POLITICAL PARTY."

2. Page 23, line 10.

Strike: "COMMITTEE ON COMMITTEES"

Insert: "president and two by the minority leader"

Amendment **not** adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 20

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cromley, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Esp, Johnson, Mangan.

Total 3

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SB 461 - Senator Story moved **SB 461**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 38

Nays: Bohlinger, Cobb, Cromley, Glaser, Grimes, McCarthy, McNutt, Pease, Sprague, Squires, Toole.
Total 11

Absent or not voting: None.
Total 0

Excused: Esp.
Total 1

Senator McGee assumed the chair.

SB 260 - Senator DePratu moved **SB 260** do pass. After discussion, Senator DePratu made a **substitute motion** that **SB 260**, second reading copy, be amended as follows:

1. Title, page 1, lines 25 and 26.

Strike: "A CONTINGENT DELAYED"

Insert: "AN IMMEDIATE"

Following: "DATE" on line 26

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

2. Page 2.

Following: line 27

Insert: "(5) If a property is a single-family dwelling owned by a business, an occupant who is an employee of the business is considered an owner for the purposes of this section."

Renumber: subsequent subsections

3. Page 3, line 13.

Strike: "(6)(a)(ii)"

Insert: "(7)(a)(ii)"

4. Page 3, line 16.

Strike: "(6)(b)(i)(D)"

Insert: "(7)(b)(i)(D)"

5. Page 21, line 13.

Strike: "(1)"

6. Page 21, line 16.

Strike: subsection (2) in its entirety

7. Page 21, lines 18 and 19.

Strike: "January" on line 18 through "2004" on line 19

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Insert: "passage and approval"

8. Page 21, line 20.

Insert: "NEW SECTION. Section 14. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2002."

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cooney, Cromley, DePratu, Ellingson, Glaser, Hansen, Harrington, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Mr. President.

Total 28

Nays: Elliott, Johnson, Kitzenberg, Pease, Roush, Ryan, Schmidt, Toole, Tropila.

Total 9

Absent or not voting: None.

Total 0

Excused: Black, Cobb, Cocchiarella, Curtiss, Esp, Gebhardt, Grimes, Laible, McCarthy, Shea, Sprague, Wheat, Zook.

Total 13

SB 260 - Senator DePratu moved **SB 260**, as amended, do pass. Motion **failed** as follows:

Yeas: Anderson, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Grimes, Hansen, Laible, Mahlum, McGee, McNutt, Roush, Shea, Sprague, Stapleton, Tash, Taylor, Thomas, Mr. President.

Total 21

Nays: Bales, Bohlinger, Cobb, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Glaser, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat, Zook.

Total 28

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

SB 260 - Senator Thomas moved **SB 260** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Bohlinger, Cobb, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Glaser, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 33

Nays: Anderson, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Grimes, Hansen, Mahlum, McGee, Roush, Shea, Tash, Taylor, Mr. President.

Total 16

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Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

SB 255 - Senator DePratu moved consideration of **SB 255** be passed for the day. Motion carried.

SB 155 - Senator Taylor moved **SB 155** do pass. Motion carried unanimously.

SB 463 - Senator Black moved **SB 463** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Cooney, DePratu, Esp, Gebhardt, Glaser, Mahlum, Mangan, McGee, McNutt, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Wheat, Zook, Mr. President.
Total 31

Nays: Bohlinger, Cobb, Cromley, Curtiss, Ellingson, Elliott, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, McCarthy, Nelson, O'Neil, Pease, Squires, Toole, Tropila.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Grimes re-assumed the chair.

Senator DePratu rose on a point of personal privilege to apologize for a remark he had made earlier, which may have been taken as a callous remark concerning gambling. He stated it was not intended to put any of the Butte delegation or their affiliates down, and apologized if offense was taken.

Senator Sprague rose on a point of personal privilege to state he had not taken personal offense to any remarks made by Senator DePratu.

SB 297 - Senator Glaser moved **SB 297** do pass. Motion carried as follows:

Yeas: Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McNutt, Pease, Ryan, Schmidt, Shea, Stonington, Story, Toole, Wheat, Zook.
Total 27

Nays: Anderson, Bales, Butcher, Cobb, Curtiss, Elliott, Hansen, Harrington, McCarthy, McGee, Nelson, O'Neil, Perry, Roush, Sprague, Squires, Tash, Taylor, Tester, Tropila, Mr. President.
Total 21

Absent or not voting: None.
Total 0

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Excused: Stapleton, Thomas.
Total 2

SB 475 - Senator Esp moved **SB 475** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cooney, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Grimes, Harrington, Kitzenberg, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 37

Nays: Cobb, Cocchiarella, Cromley, Elliott, Glaser, Hansen, Johnson, Laible, Mahlum, O'Neil, Sprague, Stapleton.
Total 12

Absent or not voting: None.
Total 0

Excused: Shea.
Total 1

Senator Thomas moved the committee rise, report and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Zook, Chairman):
SB 435, introduced bill, be amended as follows:

4/2/2003

1. Page 1, line 27.

Strike: "annually"

2. Page 1, line 28.

Strike: "\$2"

Insert: "beginning in calendar year 2005, \$4"

3. Page 2, line 6.

Strike: "annually"

4. Page 2, line 8.

Strike: "\$3"

Insert: "beginning in calendar year 2005, \$6"

5. Page 2, line 27.

Following: "(10)(h)"

Insert: "and beginning in calendar year 2005, 20 cents for each light vehicle subject to registration or reregistration pursuant to 61-3-321"

6. Page 2, line 29.

Following: "cents"

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Insert: "for calendar year 2004 and 50 cents in each succeeding calendar year"

7. Page 3, line 1.

Strike: "annually"

Strike: "\$1"

Insert: "beginning in calendar year 2005, \$1.25"

8. Page 3, line 10.

Following: "61-3-562."

Insert: "Permanently registered vehicles may be included in vehicle counts only in the year in which the vehicle is registered or reregistered."

9. Page 4, line 29.

Strike: "\$2"

Insert: "\$4"

10. Page 4, line 30.

Strike: "\$3"

Insert: "\$6"

11. Page 5, line 4.

Following: "61-3-406"

Insert: "for the current year"

12. Page 5, line 5.

Following: "61-3-422"

Insert: "for the current year"

13. Page 5, line 6.

Following: "61-3-465"

Insert: "for the current year"

14. Page 5, line 7.

Following: "fee"

Insert: "and beginning in calendar year 2005, a \$1.25 fee"

15. Page 5, line 10.

Strike: "\$2"

Insert: "\$1.25"

16. Page 5, line 11.

Strike: "\$2"

Insert: "\$1.25"

17. Page 5, line 13.

Following: line 12

Insert: "(c) The fees associated with the following series of license plates must be paid only once, in the year of registration or reregistration, to be used for purposes of permanent registration of a vehicle:

(i) Montana national guard license plates issued under 61-3-332(10)(a)(i);

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(ii) reserve armed forces license plates issued under 61-3-332(10)(b);
(iii) license plates bearing a wheelchair design as a symbol of a person with a disability issued under 61-3-332(10)(g);
(iv) amateur radio operator license plates issued under 61-3-422; and
(v) generic specialty license plates issued under 61-3-479."

18. Page 5, line 14.

Strike: "two"

Insert: "three"

19. Page 5, line 15.

Following: "61-10-201"

Insert: "for the current year"

20. Page 6, line 1.

Insert: "NEW SECTION. Section 5. Coordination instruction. If Senate Bill No. 118 and [this act] are both passed and approved, then [section 16] of Senate Bill No. 118, amending 61-3-562, is void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 446, introduced bill, be amended as follows:

1. Title, line 7.

Following: the second "ACT"

Insert: "TEMPORARILY"

2. Title, line 10.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

3. Page 2, following line 17.

Insert: "NEW SECTION. Section 4. Termination. [This act] terminates June 30, 2005."

And, as amended, do pass. Report adopted.

SB 473, introduced bill, be amended as follows:

1. Title, line 7.

Strike: "ENROLLMENT"

Insert: "APPLICATION"

2. Page 1, line 28 through line 29.

Following: "2]" on line 28

Strike: remainder of line 28 through "6" on line 29

3. Page 2, line 7.

Strike: "The"

Insert: "By July 1, 2004, or upon securing any necessary waivers, the"

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4. Page 2, line 9.

Strike: "up to 300% "

Insert: "or below 200% "

5. Page 2, line 10.

Following: "level."

Strike: "The"

Insert: "Subject to subsection (7), the"

Strike: "enrollment"

Insert: "application"

6. Page 2, line 11.

Strike: "enrollment"

Insert: "application"

7. Page 2, line 18.

Strike: "discounted price less"

Insert: "discount on"

8. Page 3, line 2.

Strike: "Hawaii"

Insert: "Maine"

9. Page 3, line 7.

Strike: "300% "

Insert: "200% "

10. Page 3, line 11.

Following: line 10

Insert: "(7) Establishment of the prescription drug expansion program is contingent upon approval by the federal government that the program in [sections 1 through 7] will qualify for federal financial participation under federal laws implementing the medicaid program. The department may adopt rules necessary to implement conditions required by federal law or conditions required as part of the federal government's agreement to waive certain requirements of federal law.

(8) If program costs are expected to exceed the legislative authorization for the program, the department shall adjust discounted prices, the application fee, or eligibility standards to maintain the program within the available funding."

11. Page 3, line 15.

Strike: "the standards of"

12. Page 3, line 17.

Strike: "Individuals"

Insert: "Subject to [section 2(8)], individuals"

13. Page 3, line 18.

Strike: "300% "

Insert: "200% "

And, as amended, do pass. Report adopted.

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SB 476, introduced bill, be amended as follows:

1. Title, line 13.

Following: "FOLLOWED;"

Insert: "REQUIRING THAT THE COMMUNITY MENTAL HEALTH CENTERS REPORT CERTAIN INFORMATION WITHIN 5 DAYS;"

2. Title, line 16.

Following: "53-21-127,"

Insert: "53-21-128,"

3. Page 2, line 13.

Strike: "notice and a"

4. Page 2, line 16.

Strike: "notice and a"

5. Page 5.

Following: line 18

Insert: "**Section 4.** Section 53-21-128, MCA, is amended to read:

"53-21-128. Petition for extension of commitment period. (1) (a) Not less than 2 calendar weeks prior to the end of the 3-month period of commitment to the state hospital or the period of commitment to a community facility or program or a course of treatment provided for in 53-21-127, the professional person in charge of the patient at the place of commitment may petition the district court in the county where the patient is committed for extension of the commitment period unless otherwise ordered by the original committing court. The petition must be accompanied by a written report and evaluation of the patient's mental and physical condition. The report must describe any tests and evaluation devices that have been employed in evaluating the patient, the course of treatment that was undertaken for the patient, and the future course of treatment anticipated by the professional person.

(b) The petitioner shall provide a copy of the petition and the professional person's written report to the community mental health center serving the county in which the respondent resided at the time of initial commitment by mail, hand delivery, or facsimile transmission. Within 5 days of receiving the petition, including weekends and holidays unless the 5th day falls on a Saturday, Sunday, or holiday, the community mental health center shall report to the court, the petitioner's attorney, and the respondent's attorney regarding whether the community mental health center:

(i) has services available or is able to arrange for services to serve the respondent appropriately in a community setting;

(ii) has developed and submitted a recommended treatment plan that meets the respondent's needs for mental health treatment and support; and

(iii) agrees to accept the respondent for treatment.

(c) Upon the filing of the petition, the court shall give written notice of the filing of the petition to the patient, the patient's next of kin, if reasonably available, the friend of respondent appointed by the court, and the patient's counsel. If any person notified requests a hearing prior to the termination of the previous commitment authority, the court shall immediately set a time and place for a hearing on a date not more than 10 days from the receipt of the request and notify the same people, including the professional person in charge of the patient. If a hearing is not requested, the court shall enter an order of commitment for a period not to exceed 6 months.

~~(c)~~(d) Procedure on the petition for extension when a hearing has been requested must be the same in all respects as the procedure on the petition for the original 3-month commitment except the patient is not entitled to trial by jury. The hearing must be held in the district court having jurisdiction over the facility in which the patient is detained unless otherwise ordered by the court. Court costs and witness fees, if any, must be paid by the county that paid the same costs in the initial commitment proceedings.

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(d)(e) If upon the hearing the court finds the patient not to be suffering from a mental disorder and requiring commitment within the meaning of this part, the patient must be discharged and the petition dismissed. If the court finds that the patient continues to suffer from a mental disorder and to require commitment, the court shall order commitment as set forth in 53-21-127(3). However, an order may not affect the patient's custody for more than 6 months. In its order, the court shall describe what alternatives for treatment of the patient are available, what alternatives were investigated, and why the investigated alternatives were not found suitable. The court may not order continuation of an alternative that does not include a comprehensive, individualized plan of treatment for the patient. A court order for the continuation of an alternative must include a specific finding that a comprehensive, individualized plan of treatment exists.

(2) Prior to the end of the period of commitment to a community facility or program or course of treatment, a respondent may request that the treating provider petition the district court for an extension of the commitment order. The petition must be accompanied by a written report and evaluation of the respondent's mental and physical condition, an updated treatment plan, and a written statement by the respondent that an extension is desired. The extension procedure must follow the procedure required in subsections (1)(b) through (1)(d).

(3) Further extensions under subsection (1) or (2) may be obtained under the same procedure described in subsection (1). However, the patient's custody may not be affected for more than 1 year without a renewal of the commitment under the procedures set forth in subsection (1), including a statement of the findings required by subsection (1)."

Renumber: subsequent sections

6. Page 6, line 9 and line 10.

Following: "purpose of" on line 9

Strike: remainder of line 9 through "to" on line 10

Insert: "maximizing the number of patients successfully treated in community settings rather than at"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

April 1, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 103** sponsored by Senator Laible, **Senate Bill 107** sponsored by Senator Roush, **Senate Bill 122** sponsored by Senator Tash, **Senate Bill 125** sponsored by Senator Tester, and **Senate Bill 229** sponsored by Senator F. Thomas et al. on April 1, 2003.

Sincerely,

JUDY MARTZ
Governor

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MOTIONS

HB 719 - Senator Gebhardt moved **HB 719** be taken from the table in the State Administration committee, printed and placed on second reading. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Curtiss, Esp, Gebhardt, Glaser, Grimes, Mangan, McGee, McNutt, Perry, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 22

Nays: Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Stonington, Tester, Toole, Tropila, Wheat.
Total 27

Absent or not voting: None.
Total 0

Excused: Shea.
Total 1

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:00 p.m. this day. Motion carried.

Senate recessed at 11:53 p.m.
Senate reconvened at 1:00 p.m.

Roll call. All members present except Senator Schmidt, excused. Quorum present.

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:25 p.m. this day for purpose of party caucuses. Motion carried.

Senate recessed at 1:08 p.m.
Senate reconvened at 1:33 p.m.

Roll call. All members present. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 407 - Senator DePratu moved **SB 407**, second reading copy, be amended as follows:

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1. Title, page 1, line 5.

Strike: "4 PERCENT"

2. Title, page 1, line 12.

Strike: "60"

Insert: "70"

3. Page 2, line 11 through line 12.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

4. Page 2, line 26 through line 28.

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

5. Page 3, line 12 through line 13.

Strike: subsection (8) in its entirety

Renumber: subsequent subsections

6. Page 5, line 4 through line 7.

Strike: subsection (14) in its entirety

Renumber: subsequent subsections

7. Page 5, line 28.

Strike: "(18)(A)(III)"

Insert: "(14)(a)(iii)"

8. Page 5, line 29.

Strike: "(18)(A)(VII)"

Insert: "(14)(a)(vii)"

9. Page 6, line 22 through page 7, line 13.

Strike: subsection (22) through (26) in their entirety

Renumber: subsequent subsection

10. Page 7, line 21.

Strike: subsection (1)(a) in its entirety

Renumber: subsequent subsections

11. Page 7, line 23.

Strike: ";

Insert: "."

12. Page 7, lines 24 through 28.

Strike: subsections (1)(d) through (1)(h) in their entirety

13. Page 8, line 7.

Strike: subsection (3)(a)(i) in its entirety

Renumber: subsequent subsections

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14. Page 8, line 9.

Strike: ":",

Insert: " ."

15. Page 8, lines 10 through 14.

Strike: subsections (3)(a)(iv) through (3)(a)(viii) in their entirety

16. Page 23, line 20.

Strike: "2004"

Insert: "2005"

Strike: "2005" in both places

Insert: "2006" after both strikes

17. Page 23, line 26.

Strike: "\$2,300"

Insert: "\$2,400"

18. Page 25, line 13.

Strike: "2004"

Insert: "2005"

19. Page 30, line 15.

Strike: "\$1,840"

Insert: "\$1,900"

20. Page 30, line 17.

Strike: "\$1,840"

Insert: "\$1,900"

21. Page 30, line 21.

Strike: "\$1,840"

Insert: "\$1,900"

22. Page 30, line 24.

Strike: "\$1,840"

Insert: "\$1,900"

23. Page 30, line 29.

Strike: "\$1,840"

Insert: "\$1,900"

24. Page 31, line 2.

Strike: "\$1,840"

Insert: "\$1,900"

25. Page 31, line 13.

Strike: "\$1,840"

Insert: "\$1,900"

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26. Page 35, line 9.

Strike: "\$1,530"

Insert: "\$1,580"

27. Page 35, line 11.

Strike: "\$3,460"

Insert: "\$3,560"

28. Page 36, line 1.

Strike: "\$3,460"

Insert: "\$3,560"

29. Page 36, line 3.

Strike: "\$6,920"

Insert: "\$7,120"

30. Page 36, line 5.

Strike: "\$1,840"

Insert: "\$1,900"

31. Page 37, line 8.

Strike: "60"

Insert: "70"

32. Page 38, line 10.

Strike: "1.5%"

Insert: "1.66%"

33. Page 38, line 12.

Strike: "1%"

Insert: "1.11%"

34. Page 38, line 14.

Strike: "0.75%"

Insert: "0.83%"

35. Page 38, line 20.

Strike: "3.7%"

Insert: "3.1%"

36. Page 38, line 23.

Strike: "21.9%"

Insert: "92.6%"

Following: "and"

Insert: "and"

37. Page 38, line 25.

Strike: "5.2%"

Insert: "4.3%"

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Strike: ": AND"

Insert: ": "

38. Page 38, line 26 through line 27.

Strike: subsection (4) in its entirety

39. Page 40, lines 16 through 18.

Strike: ": THAT" on line 16 through "YEAR" on line 18

40. Page 41, line 9.

Strike: "2004"

Insert: "2005"

41. Page 41, line 15.

Following: "2003:"

Insert: "and"

42. Page 41, line 17.

Strike: ": AND"

Insert: ": "

43. Page 41, line 18.

Strike: subsection (1)(d) in its entirety

44. Page 41, line 19.

Strike: "2003"

Insert: "2004"

Amendment **adopted** unanimously.

SB 407 - Senator D. Ryan moved **SB 407**, second reading copy, be further amended as follows:

1. Title, page 1, line 16.

Following: "PRODUCTS:"

Insert: "IMPOSING AN EXCISE TAX ON SOFT DRINKS; PROVIDING THAT THE TAX BE PAID BY SOFT DRINK BOTTLERS AND IMPORTERS; PROVIDING THAT THE TAX BE PAID ON EACH UNIT OF SOFT DRINK; PROVIDING FOR THE ADMINISTRATION OF THE TAX; PROVIDING FOR A PENALTY; PROVIDING THAT THE COLLECTIONS OF THE TAX BE USED TO FUND SERVICES FOR OLDER MONTANANS AND MEDICAID SERVICES;"

2. Page 40, line 8.

Insert: "NEW SECTION. Section 55. Definitions. As used in [sections 55 through 60], the following definitions apply:

- (1) "Bottler" means a person who manufactures soft drinks in the state.
- (2) "Importer" means a person who transports soft drinks into the state for domestic consumption.
- (3) (a) "Soft drink" means a nonalcoholic beverage that contains natural or artificial sweeteners.
- (b) The term does not include a beverage that contains milk or milk products, soy, rice, or similar milk substitutes or that contains greater than 50% vegetable or fruit juice by volume.
- (4) "Unit of soft drink" means:

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- (a) one container, such as a can or bottle, sealed by a bottler, that contains a soft drink; or
- (b) the amount of concentrate contained in a bulk container used to produce 12 fluid ounces of a soft drink in a soft drink fountain."

Insert: "NEW SECTION. Section 56. Soft drink tax -- rate -- report -- vendor allowance. (1) Each bottler or importer shall pay to the department an excise tax of 5 cents for each unit of soft drink manufactured or imported by the bottler or importer.

(2) A bottler or importer shall report to the department at the end of each calendar quarter the number of units of soft drink bottled or imported during the quarter. A bottler or importer may deduct from the number of units of soft drink bottled or imported the number of units that the bottler or importer exported from the state and the number of units that were unsalable and destroyed or returned to the bottler or importer. The report is due within 30 days following the end of the calendar quarter and must be accompanied by a payment in an amount equal to the tax required to be collected under this section, less the vendor allowance provided in subsection (3).

(3) A bottler and importer may withhold from payment of the tax imposed by this section an amount equal to 4% of the payment to reimburse the bottler or vendor for the expense of collecting the tax. The allowance may not be withheld from a delinquent payment."

Insert: "NEW SECTION. Section 57. Bottler and importer registration. A person may not manufacture soft drinks in this state or import soft drinks into this state for the purposes of consumption of the soft drinks in the state unless the person has registered with the department as a soft drink bottler or importer. The registration must be made on forms supplied by the department at no charge. The registration must be renewed annually by a date established by the department."

Insert: "NEW SECTION. Section 58. Unlawful sales. (1) A person may not sell or offer to sell soft drinks that were not manufactured or imported by registered bottlers or importers with the intent to evade the tax imposed by [section 56].

(2) Violation of this section is a misdemeanor punishable by a fine of not more than \$500 or by imprisonment for not more than 6 months."

Insert: "NEW SECTION. Section 59. Audits -- records -- penalty and interest. (1) The department may audit the books and records of any bottler or importer to ensure that the proper amount of tax imposed by [section 56] has been paid. An audit may be done on the premises of the bottler or importer or at any other convenient location.

(2) The penalty and interest provisions of 15-1-216 apply to the reporting and payment of the tax imposed by [section 56].

(3) The department may conduct an investigation pursuant to 15-1-301 to ensure proper payment of the tax imposed by [section 56].

(4) A dispute between a bottler or importer and the department is subject to the uniform dispute review procedure established in 15-1-211."

Insert: "NEW SECTION. Section 60. Disposition of tax. The collections from the tax imposed in [section 56], less any refunds, must be used to provide:

(1) services for older Montanans, either directly or through area agencies on aging, including services identified under 52-3-504, in-home services, services for grandparents taking care of grandchildren, respite care, ombudsman services, prevention of elder abuse, family caregiver services, and transportation services;

(3) scholarships for Montana high school graduates; and

(2) medicaid coverage."

Renumber: subsequent sections

3. Page 40, line 25.

Following: "40"

Insert: "and 55 through 60"

4. Page 40, line 26.

Following: "40"

Insert: "and 55 through 60"

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5. Page 41, line 19.

Insert: "(3) [Sections 55 through 60] apply to soft drinks bottled or imported into the state after June 30, 2003."

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Gebhardt, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat.

Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Elliott, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 407 - Senator Mangan moved **SB 407**, second reading copy, be further amended as follows:

1. Page 40, line 29.

Insert: "NEW SECTION. Section 58. Coordination instruction. If Senate Bill No. 470 is passed and approved, then [sections 41 through 48 of this act] are void."

Renumber: subsequent sections

Amendment **adopted** unanimously.

SB 407 - Senator Tester moved **SB 407**, second reading copy, be further amended. After discussion, Senator Tester withdrew his amendment.

SB 407 - Senator DePratu moved **SB 407**, as amended, do pass. After discussion, Senator Stonington moved **SB 407**, second reading copy, be further amended as follows:

1. Title, line 19.

Following: "~~AND~~"

Strike: ", "

Insert: "AND"

Strike: ", AND A TERMINATION DATE"

2. Page 41, line 21.

Strike: section 62 in its entirety

Amendment **adopted** as follows:

Yeas: Anderson, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, Nelson, Pease, Roush, Ryan, Schmidt, Stapleton, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

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Total 29

Nays: Bales, Barkus, Butcher, Curtiss, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Mangan, McNutt, O'Neil, Perry, Shea, Sprague, Squires, Story, Tash, Zook, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 407 - Senator DePratu moved **SB 407**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Pease, Perry, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 35

Nays: Cooney, Elliott, Hansen, Harrington, Nelson, O'Neil, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Tester, Toole, Wheat.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 487 - Senator Story moved **SB 487**, second reading copy, be amended as follows:

1. Page 4, lines 24 and 25.

Strike: section 6 in its entirety

Amendment **adopted** unanimously.

SB 487 - Senator Pease moved **SB 487**, as amended, do pass. Motion carried unanimously.

SB 481 - Senator Black moved **SB 481** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, Elliott, Glaser, Grimes, Hansen, Kitzenberg, Mahlum, McNutt, Nelson, Pease, Perry, Shea, Sprague, Stapleton, Tash, Taylor, Tester, Thomas, Toole, Mr. President.

Total 27

Nays: Barkus, Cromley, DePratu, Ellingson, Esp, Gebhardt, Johnson, Laible, Mangan, McCarthy, McGee, O'Neil, Roush, Ryan, Schmidt, Squires, Stonington, Story, Tropila, Wheat, Zook.

Total 21

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Absent or not voting: Cooney, Harrington.
Total 2

Excused: None.
Total 0

SB 484 - Senator Mangan moved **SB 484** do pass. Motion carried with Senators McGee and O'Neil voting nay.

SB 488 - Senator Harrington moved **SB 488** do pass. After discussion, Senator Taylor made a **substitute motion** that **SB 488**, second ready copy, be amended as follows:

1. Title, page 1, line 22.

Strike: "CERTAIN TAX PROCEEDS BE USED FOR"

Following: "EDUCATION"

Insert: "BE INCREASED FROM 44.7% TO 65%"

2. Title, page 1, line 29.

Following: "16-11-206,"

Insert: "20-9-306, 20-9-367, 20-9-368,"

3. Page 17, line 3.

Following: "(3);"

Insert: "and"

4. Page 17, line 4.

Strike: subsection (2)(b) in its entirety

Renumber: subsequent subsection

5. Page 19, line 21.

Insert: "**Section 27.** Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for ~~44.7%~~ 65% of the basic entitlement and ~~44.7%~~ 65% of the total per-ANB entitlement for the general fund budget of a district; and

(b) guaranteed tax base aid for an eligible district for any amount up to ~~35.3%~~ 15% of the basic entitlement, up to ~~35.3%~~ 15% of the total per-ANB entitlement budgeted in the general fund budget of a district, and up to 40% of the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) \$213,819 for each high school district;

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(b) \$19,244 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows:

(i) \$19,244 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) \$213,819 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Direct state aid" means ~~44.7%~~ 65% of the basic entitlement and ~~44.7%~~ 65% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(8) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(9) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(10) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$5,205 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of \$3,906 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of \$3,906 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$5,205 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.""

Insert: "Section 28. Section 20-9-367, MCA, is amended to read:

"20-9-367. Eligibility to receive guaranteed tax base aid or state advance or reimbursement for school facilities. (1) If the district guaranteed tax base ratio of any elementary or high school district is less than the corresponding statewide elementary or high school guaranteed tax base ratio, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of up to ~~35.3%~~ 15% of the basic entitlement, up to ~~35.3%~~ 15% of the total per-ANB entitlement, and up to 40% of the special education allowable cost payment budgeted within the general fund budget.

(2) If the county retirement mill value per elementary ANB or the county retirement mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county.

(3) For the purposes of 20-9-370 and 20-9-371, if the district mill value per elementary ANB or the district mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or statewide mill value per high school ANB, the district may receive a state advance or reimbursement for school facilities in support of the debt service fund.""

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Insert: "Section 29. Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid. (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.

(3) The amount of guaranteed tax base aid that a district may receive in support of up to ~~35.3%~~ 15% of the basic entitlement, up to ~~35.3%~~ 15% of the total per-ANB entitlement budgeted within the general fund budget, and up to 40% of the special education payment is calculated in the following manner:

(a) multiply the sum of the district's BASE budget amount less direct state aid by the corresponding statewide guaranteed tax base ratio;

(b) subtract the taxable valuation of the district from the product obtained in subsection (3)(a); and

(c) divide the remainder by 1,000 to determine the equivalent to the dollar amount of guaranteed tax base aid for each mill levied.

(4) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

Renumber: subsequent sections

6. Page 24, line 6.

Strike: "26" through "36"

Insert: "29, 35, 36, 38, 39"

7. Page 24, line 8.

Strike: "27"

Insert: "30"

Strike: "31"

Insert: "34"

8. Page 24, line 9.

Strike: "28"

Insert: "31"

Strike: "30"

Insert: "33"

Amendment **not** adopted as follows:

Yeas: Anderson, Barkus, Black, Curtiss, DePratu, Esp, Gebhardt, Glaser, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.

Total 23

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.

Total 24

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Absent or not voting: Bales, Butcher, Grimes.
Total 3

Excused: None.
Total 0

SB 488 - Senator Glaser moved **SB 488**, second reading copy, be amended as follows:

1. Title, page 1, line 19 through page 21.
Strike: "PROVIDING" on line 19 through "TAX;" on line 21
2. Page 14, line 20 through page 19, line 20.
Strike: sections 17 through 26 in their entirety
Renumber: subsequent sections
3. Page 23, line 28 through line 30.
Strike: section 32 in its entirety
4. Page 24, line 2.
Strike: "and 17 through 26"
5. Page 24, line 4.
Strike: "and 17 through 26"
6. Page 24, line 6.
Strike: "17 " through "36"
Insert: "22, 24"
7. Page 24, line 8.
Strike: "27, and 31,"
Insert: "17, and 21"
8. Page 24, line 9.
Strike: "28 through 30"
Insert: "18 through 20"
9. Page 24, line 14 through line 15.
Strike: section 36 in its entirety

Amendment **not** adopted as follows:

Yeas: Anderson, Bales, Barkus, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Thomas, Zook.
Total 21

Nays: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Taylor, Tester, Toole, Tropila, Wheat, Mr. President.
Total 28

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Absent or not voting: Butcher.
Total 1

Excused: None.
Total 0

SB 488 - Senator Taylor moved **SB 488**, second reading copy, be amended as follows:

1. Title, page 1, line 22.

Following: "EDUCATION;"

Insert: "PROVIDING AN INDIVIDUAL INCOME TAX AND CORPORATE LICENSE TAX CREDIT FOR THE AMOUNT OF PROPERTY TAXES PAID FOR STATEWIDE SCHOOL AND UNIVERSITY SYSTEM PROPERTY TAX LEVIES;"

2. Page 19, line 21.

Insert: "NEW SECTION. Section 27. School equalization credit for individual. (1) (a) A taxpayer is entitled to a credit against the taxes imposed in 15-30-103.

(b) The amount of the credit is equal to the amount of property tax reported to the taxpayer under 15-16-101(2) for the levies imposed in 15-10-107, 20-9-331, 20-9-333, and 20-9-360, not to exceed \$5,000.

(c) If the amount of the credit determined under this subsection (1) is more than the amount of tax owed under 15-30-103, the excess must be refunded to the taxpayer.

(2) A return filed using the filing status married filing jointly is considered to have been filed by one taxpayer.

(3) A fiduciary or a beneficiary of an estate or trust who was required to file an income tax return pursuant to 15-30-135 is not considered a taxpayer unless a return was filed on behalf of the decedent for the previous year.

(4) In the property tax notice sent by the county treasurer under 15-16-101(2), the amount of the total tax due that is levied pursuant to 15-10-107, 20-9-331, 20-9-333, and 20-9-360 must be specifically reported. The amount reported is the amount of the school equalization credit that may be claimed under this section or [section 28]. The notice must have a conspicuous explanation to the taxpayer that the amount is refundable through an income or corporate tax filing. The notice or a copy of the notice is intended to be saved for use when filing an individual or corporate tax return."

Insert: "NEW SECTION. Section 28. School equalization credit for business. (1) (a) A taxpayer is entitled to a credit against the taxes imposed under this chapter.

(b) The amount of the credit is equal to the amount of property tax reported to the taxpayer under 15-16-101(2) for the levies imposed in 15-10-107, 20-9-331, 20-9-333, and 20-9-360, not to exceed \$5,000.

(c) If the amount of the credit determined under this subsection (1) is more than the amount of tax owed under this chapter, the excess must be refunded to the taxpayer.

(2) If the credit under this section is claimed by a small business corporation, as defined in 15-30-1101, or a partnership, the credit must be attributed to shareholders or partners using the same proportion used to report the corporation's or partnership's income or loss for Montana income tax purposes. (3) In the property tax notice sent by the county treasurer under 15-16-101(2), the amount of the total tax due that is levied pursuant to 15-10-107, 20-9-331, 20-9-333, and 20-9-360 must be specifically reported. The amount reported is the amount of the school equalization credit that may be claimed under this section or [section 27]. The notice must have a conspicuous explanation to the taxpayer that the amount is refundable through an income or corporate tax filing. The notice or a copy of the notice is intended to be saved for use when filing an individual or corporate tax return."

3. Page 24, line 2.

Strike: "26"

Insert: "28"

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4. Page 24, line 4.

Strike: "26"

Insert: "28"

5. Page 24, line 6.

Strike: "26" through "36"

Insert: "28, 34, 35, 37, 38"

6. Page 24, line 8.

Strike: "27"

Insert: "29"

Strike: "31"

Insert: "33"

7. Page 24, line 9.

Strike: "28"

Insert: "30"

Strike: "30"

Insert: "32"

Amendment **not** adopted as follows:

Yeas: Anderson, Barkus, Black, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Tash, Taylor, Zook, Mr. President.

Total 21

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.

Total 25

Absent or not voting: Bales, Butcher, Mangan, Thomas.

Total 4

Excused: None.

Total 0

Senators Bales, Butcher, Nelson and Stapleton excused at this time.

SB 488 - Senator Tester moved **SB 488**, second reading copy, be amended as follows:

1. Title, line 25 through line 28.

Following: "PROJECTS;" on line 25

Strike: remainder of line 25 through "VEHICLES;" on line 28

Insert: "REVISING THE INTEREST RATE APPLIED TO THE REFUND OF PROPERTY TAXES OR FEES PAID UNDER PROTEST; PROVIDING THAT THE STATE SHARE OF PROTESTED PROPERTY TAXES MUST BE REMITTED TO THE STATE TREASURER; PROVIDING THAT A GOVERNING BODY OF A TAXING JURISDICTION MAY ACCESS PROTESTED PROPERTY TAXES; PROVIDING THAT REFUNDS OF PROTESTED PROPERTY TAXES TO TAXPAYERS THAT ARE CENTRALLY ASSESSED MAY BE MADE UP TO 10 YEARS FOLLOWING RESOLUTION OF THE PROTEST;"

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Strike: "15-1-122,"

Insert: "15-1-402,"

2. Title, line 29.

Following: "16-11-206,"

Insert: "AND"

Strike: "61-3-315, 61-3-561, AND 61-3-562,"

3. Page 2, line 4 through page 4, line 7.

Strike: section 1 in its entirety

Insert: "**Section 1.** Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of taxes under protest. (1) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested. The protested payment must:

(a) be made to the officer designated and authorized to collect it;

(b) specify the grounds of protest; and

(c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(2) A person appealing a property tax or fee pursuant to chapter 2 or 15 shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal may continue but a tax or fee may not be refunded as a result of the appeal.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4)(a) ~~At~~ Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state must be remitted by the county treasurer to the state treasurer.

(ii) The state treasurer shall deposit that portion of the funds levied pursuant to 15-10-107 in the state special revenue fund. The remainder of the funds must be deposited in the state general fund.

(5) The governing ~~board~~ body of a taxing jurisdiction affected by the payment of taxes under protest ~~in the second and subsequent years that a tax protest remains unresolved~~ may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, ~~except the amount paid by the taxpayer in the first year of the protest.~~ The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, ~~except the first-year protest amount.~~

(6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the protested portions of the property tax or fee must be taken from the protest fund and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the

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local government units.

(b) ~~(i)~~ If the action is finally determined adversely to the ~~department of revenue, a county, a municipality, or the treasurer of a county or a municipality, then the treasurer shall, upon receiving a certified copy of the final judgment in the action from the state tax appeal board or from the district or supreme court, as appropriate, if the final action of the state tax appeal board is appealed in the time prescribed, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee deposited in the protest fund, and not released pursuant to subsection (5), as the person holding the judgment is entitled to recover, together with interest from the date of payment under protest, at the greater of:~~

~~_____ (i) the rate of interest generated from the pooled investment fund provided for in 17-6-203 for the applicable period; or~~

~~_____ (ii) 6% a year governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest.~~

(ii) The taxing jurisdiction shall pay interest at the rate of interest generated from the pooled investment fund provided for in 17-6-203 for the applicable period.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

(d) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible.

(e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction is allowed not more than ~~1 year~~ 10 years from the beginning of the fiscal year following a final resolution of the protest for property centrally assessed pursuant to 15-23-101 and not more than 1 year for all other property. The taxpayer is entitled to interest on the unpaid balance at the ~~greater of the rates rate~~ referred to in ~~subsections (6)(b)(i) and (6)(b)(ii)~~ subsection (6)(b) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus ~~four~~ two percentage points, from the date of final resolution of the protest until refund is made.

(7) A taxing jurisdiction may satisfy the requirements of this section by use of funds from one or more of the following sources:

- (a) imposition of a property tax to be collected by a special tax protest refund levy;
- (b) the general fund or any other funds legally available to the governing body; and
- (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is not owed.""

4. Page 21, line 6 through page 23, line 21.

Strike: sections 28 through 30 in their entirety

Renumber: subsequent sections

5. Page 24, line 6.

Following: "Sections"

Insert: "1, "

Strike: "32, 33, 35, 36,"

Insert: "29, 30, 32, 33,"

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6. Page 24, line 8.

Strike: "31"

Insert: "28"

7. Page 24, line 9.

Strike: subsection (3) in its entirety

8. Page 24, line 11.

Strike: "(1)"

9. Page 24, line 14.

Following: "applicability."

Insert: "(1)"

10. Page 24, line 16.

Insert: "(2) [Section 1] applies retroactively, within the meaning of 1-2-109, to any tax appeal or tax paid under protest after October 31, 2000, except for refunds of property taxes made after October 31, 2000, and before [the effective date of this section]."

Amendment **adopted** as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Barkus, Curtiss, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Story, Tash, Thomas, Zook, Mr. President.
Total 20

Absent or not voting: Mangan, Taylor.
Total 2

Excused: Bales, Butcher, Nelson, Stapleton.
Total 4

Senator Stapleton present at this time.

SB 488 - Senator Harrington moved **SB 488**, as amended, do pass. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat.
Total 22

Nays: Anderson, Bales, Barkus, Black, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Absent or not voting: None.
Total 0

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Excused: Butcher, Gebhardt, Nelson.
Total 3

SB 488 - Senator F. Thomas moved **SB 488** be **indefinitely postponed**. Motion carried unanimously.

Yeas: Anderson, Bales, Barkus, Black, Cobb, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: Butcher, Gebhardt, Nelson.
Total 3

SB 446 - Senator Barkus moved **SB 446** do pass. Motion carried unanimously.

Senator Nelson present at this time.
Senator McGee assumed the chair.

SB 474 - Senator F. Thomas moved **SB 474, requiring 2/3 vote**, do pass. Motion received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Pease, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.
Total 32

Nays: Cooney, Cromley, Ellingson, Hansen, Harrington, Johnson, McCarthy, Nelson, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila.
Total 16

Absent or not voting: None.
Total 0

Excused: Butcher, Gebhardt.
Total 2

SB 474 - Senator F. Thomas moved **SB 474**, second reading copy, be amended as follows:

1. Title, lines 11 and 12.

Following: "PROGRAM;" on line 11

Strike: remainder of line 11 through "ACCOUNT;" on line 12

Insert: "PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;"

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2. Page 13, lines 23 through 27.

Strike: section 14 in its entirety

Renumber: subsequent sections

3. Page 14, lines 3 through 5.

Strike: section 16 in its entirety

Renumber: subsequent section

4. Page 14, line 7.

Strike: "July 1, 2003"

Insert: "upon approval by the electorate"

5. Page 14, line 8.

Insert: "NEW SECTION. Section 16. Submission to electorate. This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2004 by printing on the ballot the full title of this act and the following:

- ☐ FOR providing a drug benefit to eligible senior citizens.
- ☐ AGAINST providing a drug benefit to eligible senior citizens."

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Glaser, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 33

Nays: Cooney, Ellingson, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole.

Total 14

Absent or not voting: None.

Total 0

Excused: Butcher, Gebhardt, Grimes.

Total 3

SB 474 - Senator F. Thomas moved **SB 474**, as amended, do pass. Motion received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Glaser, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Pease, Perry, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 33

Nays: Cooney, Ellingson, Elliott, Hansen, McCarthy, Nelson, Roush, Ryan, Schmidt, Stonington, Tester, Toole, Tropila, Wheat.

Total 14

Absent or not voting: None.

Total 0

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Excused: Butcher, Gebhardt, Grimes.
Total 3

SB 473 - Senator Elliott moved **SB 473**, second reading copy, be amended as follows:

1. Page 3, line 23.

Strike: "or"

2. Page 3, line 25.

Following: "program"

Insert: "; or

(c) eligible for mental health services pursuant to 53-21-702(2)"

3. Page 5, line 1.

Following: page 4, line 30

Insert: "NEW SECTION. Section 11. Contingent voidness. If the department of public health and human services is unable to obtain a waiver that includes persons who are eligible for mental health services pursuant to 53-21-702(2), the department shall notify the code commissioner and [section 3(1)(c)] is void."

Renumber: subsequent section

Amendment **adopted** unanimously.

SB 473 - Senator Elliott moved **SB 473**, as amended, do pass. Motion carried as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Curtiss, DePratu, Esp, Glaser, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Thomas, Zook.
Total 20

Absent or not voting: None.
Total 0

Excused: Butcher, Cromley, Gebhardt, Grimes, Taylor, Mr. President.
Total 6

Senator Gebhardt present at this time.

SB 368 - Senator Bohlinger moved **SB 368** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Curtiss, DePratu, Esp, Glaser, Grimes, Harrington, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Story, Tash, Thomas, Wheat, Zook.
Total 21

Nays: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tester,

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Toole, Tropila.
Total 26

Absent or not voting: None.
Total 0

Excused: Butcher, Taylor, Mr. President.
Total 3

SB 476 - Senator Stonington moved **SB 476** do pass. Motion carried unanimously.

SB 332, was debated and amended on second reading on the 64th Legislative day. - Senator Toole moved **SB 332, as amended**, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat, Zook.
Total 22

Nays: Anderson, Bales, Barkus, Black, Curtiss, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Thomas.
Total 20

Absent or not voting: Kitzenberg, Mangan, Stonington.
Total 3

Excused: Bohlinger, Butcher, Sprague, Taylor, Mr. President.
Total 5

SB 435 - Senator Keenan moved consideration of **SB 435** be passed for the day. Motion carried.

SB 368 - Senator Bohlinger moved the Senate reconsider its action in failing to pass **SB 368** on second reading this day. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Thomas, Mr. President.
Total 21

Nays: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 25

Absent or not voting: None.
Total 0

Excused: Butcher, Sprague, Taylor, Zook.
Total 4

SB 368 - Senator Mangan moved **SB 368** be **indefinitely postponed**. Motion **failed** as follows:

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Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Thomas, Zook, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: Butcher, Taylor.
Total 2

SB 368 - Senator Bohlinger moved **SB 368** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Thomas, Zook, Mr. President.
Total 24

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: Butcher, Taylor.
Total 2

SB 368 - Senator Thomas moved **SB 368** be **indefinitely postponed**. Motion **passed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Thomas, Toole, Tropila, Wheat, Zook.
Total 37

Nays: Bohlinger, DePratu, Esp, Glaser, Johnson, Laible, McGee, Perry, Sprague, Tester, Mr. President.
Total 11

Absent or not voting: None.
Total 0

Excused: Butcher, Taylor.
Total 2

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 642, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Paired: Butcher, Taylor, Ayes; Stonington, Tester, Noes.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

4/2/2003

HB 266, be amended as follows:

1. Title, line 6 through line 7.

Following: "EQUIPMENT;" on line 6

Strike: remainder of line 6 through "BLIND;" on line 7

2. Page 2, line 23.

Following: line 22

Insert: "(3) The legislature may allocate funds from this program to the Montana school for the deaf and blind to be used to provide services to hearing-impaired students for the biennium ending June 30, 2005."

3. Page 2, line 28.

Strike: "400%"

Insert: "250%"

4. Page 3, line 23.

Strike: "400%"

Insert: "250%"

5. Page 4, line 9.

Strike: "All"

Insert: "Unless allocated to the Montana school for the deaf and blind, the"

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And, as amended, be concurred in. Report adopted.

HB 424, be amended as follows:

1. Title, page 1, line 4.

Strike: "ATTORNEY GENERAL"

Insert: "DEPARTMENT OF ADMINISTRATION"

2. Title, page 1, line 10 through line 11.

Strike: "CREATING" on line 10 through "TELEMARKETERS;" on line 11

3. Page 1, line 17.

Strike: "7"

Insert: "6"

4. Page 1.

Following: line 20

Insert: "(2) "Department" means the department of administration provided for in 2-15-1001."

Renumber: subsequent subsections

5. Page 2, line 15.

Strike: "attorney general"

Insert: "department"

6. Page 2, line 19.

Strike: "Attorney general"

Insert: "Department"

7. Page 2, line 20.

Strike: "attorney general"

Insert: "department"

8. Page 2, line 22.

Strike: "attorney general"

Insert: "department"

9. Page 2, line 25.

Strike: "attorney general"

Insert: "department"

10. Page 2, line 27.

Strike: "7"

Insert: "6"

11. Page 2, line 28.

Strike: "attorney general"

Insert: "department"

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12. Page 2, line 29.

Strike: "attorney general"

Insert: "department"

13. Page 3, line 9.

Strike: "attorney general"

Insert: "department"

14. Page 3, line 12.

Strike: "attorney general"

Insert: "department"

15. Page 3, line 17.

Strike: "attorney general"

Insert: "department"

16. Page 3, line 28.

Strike: "attorney general"

Insert: "department"

17. Page 3, line 29.

Strike: "attorney general"

Insert: "department"

18. Page 4, line 5.

Strike: "attorney general"

Insert: "department"

19. Page 4, line 29.

Strike: "7"

Insert: "6"

20. Page 5, line 4 through line 17.

Strike: section 6 in its entirety

Renumber: subsequent sections

21. Page 5, line 21.

Strike: "7"

Insert: "6"

Strike: "office of the attorney general"

Insert: "department"

22. Page 5, line 23.

Strike: "attorney general"

Insert: "department"

23. Page 5, line 26.

Strike: "7"

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Insert: "6"

24. Page 5, line 28.

Strike: "7"

Insert: "6"

And, as amended, be concurred in. Report adopted.

HB 509, be amended as follows:

1. Title, page 1, line 7.

Following: "PROGRAMS;"

Insert: "ESTABLISHING AN ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE;"

2. Title, page 1, line 10 through line 11.

Strike: "ELIMINATING" on line 10

Insert: "EXTENDING"

Strike: "ENDING" on line 10 through "2007" on line 11

Insert: "TO JULY 1, 2027"

Strike: "REPLACING" on line 11 through "COSTS";" on line 11

3. Title, page 1, line 12.

Strike: "ALLOW"

Insert: "REQUIRE"

4. Title, page 1, line 14 through line 15.

Strike: "ELIMINATING" on line 14 through "PLAN";" on line 15

5. Title, page 1, line 24.

Strike: "AND TRANSMISSION"

6. Title, page 2, line 11.

Following: "SECTIONS'

Insert: "5-5-202, 5-5-223,"

Following: "35-19-104,"

Strike: "69-3-1402" through "69-3-1408,"

Insert: "5-5-202, 5-5-223,"

7. Title, page 2, line 12.

Strike: "69-8-202,"

8. Title, page 2, line 12 through line 13.

Strike: "69-8-302" on line 12 through "69-8-311," on line 13

9. Page 2, line 18.

Insert: "**Section 1.** Section 5-5-202, MCA, is amended to read:

"5-5-202. Interim committees. (1) During an interim when the legislature is not in session, the committees listed in subsection (2) are the interim committees of the legislature. They are empowered to sit as committees and may act in their respective areas of responsibility. The functions of the legislative council, legislative audit committee,

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legislative finance committee, environmental quality council, and state-tribal relations committee are provided for in the statutes governing those committees.

(2) The following are the interim committees of the legislature:

- (a) economic affairs committee;
- (b) education and local government committee;
- (c) children, families, health, and human services committee;
- (d) law and justice committee;
- (e) energy and telecommunications committee;
- ~~(e)(f)~~ revenue and transportation committee; and
- ~~(f)(g)~~ state administration and veterans' affairs committee.

(3) An interim committee or the environmental quality council may refer an issue to another committee that the referring committee determines to be more appropriate for the consideration of the issue. Upon the acceptance of the referred issue, the accepting committee shall consider the issue as if the issue were originally within its jurisdiction. If the committee that is referred an issue declines to accept the issue, the original committee retains jurisdiction.

(4) If there is a dispute between committees as to which committee has proper jurisdiction over a subject, the legislative council shall determine the most appropriate committee and assign the subject to that committee."

Insert: "**Section 2.** Section 5-5-223, MCA, is amended to read:

"5-5-223. Economic affairs interim committee. The economic affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes:

- (1) department of agriculture;
- (2) department of commerce;
- (3) department of labor and industry;
- (4) department of livestock;
- ~~(5) department of public service regulation;~~
- ~~(6)(5)~~ office of the state auditor and insurance commissioner; and
- ~~(7)(6)~~ office of economic development."

Insert: "**NEW SECTION. Section 3. Energy and telecommunications interim committee.** The energy and telecommunications interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the department of public service regulation and the entities attached to the department for administrative purposes."

Renumber: subsequent sections

10. Page 2, line 24 through page 6, line 3.

Strike: section 2 through section 5 in their entirety

Renumber: subsequent sections

11. Page 7, line 9.

Strike: "stranded costs"

Insert: "transition"

12. Page 7, line 11.

Strike: "stranded costs"

Insert: "transition"

13. Page 8, line 15.

Strike: "stranded costs"

Insert: "transition"

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14. Page 8, line 16.

Strike: "stranded costs"

Insert: "transition"

15. Page 8, line 17.

Strike: "stranded costs"

Insert: "transition"

16. Page 8, line 23.

Strike: "stranded"

Insert: "transition"

17. Page 8, line 24.

Strike: the first "stranded"

Insert: "transition"

Strike: "stranded costs"

Insert: "transition"

18. Page 8, line 25.

Strike: "stranded costs"

Insert: "transition"

19. Page 8, line 27 through line 28.

Strike: "stranded" on line 27 through "costs" on line 28

Insert: "transition"

20. Page 8, line 29.

Strike: "stranded costs"

Insert: "transition cost"

21. Page 9, line 20.

Strike: "stranded"

Insert: "transition"

22. Page 10, line 7.

Strike: ""Stranded costs""

Insert: ""Transition""

Strike: "stranded costs"

Insert: "transition"

23. Page 10, line 9.

Strike: ""Stranded costs""

Insert: ""Transition""

24. Page 10, line 11.

Strike: "stranded costs" in both places

Insert: "transition" in both places

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25. Page 10, line 12.

Strike: "stranded costs" in both places

Insert: "transition" in both places

26. Page 10, line 13.

Strike: "stranded"

Insert: "transition"

Strike: "stranded costs"

Insert: "transition"

27. Page 10, line 14.

Strike: ""Stranded costs""

Insert: ""Transition""

28. Page 10, line 15.

Strike: "stranded"

Insert: "transition"

29. Page 10, line 16.

Strike: ""Stranded costs""

Insert: ""Transition cost""

30. Page 10, line 17.

Strike: "stranded"

Insert: "transition"

31. Page 10, line 18.

Strike: ""Stranded""

Insert: ""Transition""

32. Page 10, line 25.

Strike: "customer choice"

Insert: "transition"

33. Page 11, line 3.

Strike: "stranded costs"

Insert: "transition"

34. Page 11, line 5.

Strike: "stranded costs"

Insert: "transition"

35. Page 11.

Following: line 7

Insert: "(33) "Transition period" means the period ending July 1, 2027.

Renumber: subsequent subsections

36. Page 11, line 8.

Strike: ""Stranded costs""

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Insert: ""Transition"

37. Page 11, line 9 through line 10.

Strike: "stranded" on line 9 through "costs" on line 10

Insert: "transition"

38. Page 11, line 11.

Strike: "stranded costs"

Insert: "transition"

39. Page 11, line 12.

Strike: "stranded costs"

Insert: "transition"

40. Page 11, line 13.

Strike: "stranded"

Insert: "transition"

41. Page 11, line 14.

Strike: "stranded"

Insert: "transition"

Strike: "stranded costs"

Insert: "transition"

42. Page 11, line 15.

Strike: "stranded costs"

Insert: "transition"

43. Page 11, line 16.

Strike: "stranded costs"

Insert: "transition"

44. Page 12, line 6.

Strike: "69-8-201(8)"

Insert: "69-8-201(9)"

45. Page 12, line 7.

Strike: "may"

Insert: "shall"

46. Page 12, line 26.

Following: "to"

Insert: "transition to"

Following: "choice"

Insert: "--"

47. Page 13, line 5.

Following: "supplier."

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Insert: "(1) Before July 1, 2027, all public utility customers of a public utility that has restructured in accordance with this chapter must have the opportunity to choose an electricity supplier other than the default supplier."

Renumber: subsequent subsections

48. Page 13, line 15.

Strike: "(2) or (3)"

Insert: "(3) or (4)"

49. Page 13, line 17.

Strike: "(2)(B)"

Insert: "(3)(b)"

50. Page 13, line 21.

Strike: "(2)(A)"

Insert: "(3)(a) in each calendar year"

Strike: "IN A CALENDAR YEAR"

51. Page 13.

Following: line 21

Insert: "(c) A customer referred to in subsection (3)(a) receiving electricity from a licensed supplier prior to [the effective date of this act] may continue to receive electricity supply from a supplier other than the default supplier."

52. Page 13, line 22.

Strike: "(3)(b) THROUGH (3)(E)"

Insert: "(4)(b) through (4)(e)"

53. Page 13, line 26.

Strike: "(3)(a)"

Insert: "(4)(a)"

54. Page 13, line 29.

Strike: "(4)"

Insert: "(5)"

55. Page 14, line 5.

Strike: "(4)"

Insert: "(5)"

56. Page 14, line 6.

Strike: "(3)(A)"

Insert: "(4)(a)"

57. Page 14, line 8.

Strike: "(3)(A)"

Insert: "(4)(a)"

58. Page 14, line 11.

Strike: "(4)"

Insert: "(5)"

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59. Page 14, line 14.

Strike: "(1) THROUGH (3)"

Insert: "(2) through (4)"

60. Page 14, line 19.

Strike: "(1)(A)"

Insert: "(2)(a) in each calendar year"

61. Page 14, line 20.

Strike: "IN A CALENDAR YEAR"

62. Page 14, line 22.

Strike: "(4)"

Insert: "(5)"

63. Page 14, line 29.

Strike: "(7)(b)"

Insert: "(8)(b)"

64. Page 15, line 7.

Strike: "(8)(a)"

Insert: "(9)(a)"

65. Page 15, line 14 through page 16, line 1.

Strike: section 10 in its entirety

Renumber: subsequent sections

66. Page 16, line 4.

Following: "**service--**"

Insert: "**customer choice --**"

67. Page 16, line 17.

Strike: "Public"

Insert: "During the transition period, public"

68. Page 19, line 1.

Strike: "contribute to the purposes"

Insert: "are consistent with the provisions"

69. Page 19, line 2.

Strike: "are consistent with the provisions of"

70. Page 19, line 12.

Strike: "stranded"

Insert: "transition"

71. Page 19, line 14.

Strike: "stranded"

Insert: "transition"

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72. Page 19, line 19.

Strike: "customer choice"

Insert: "transition"

73. Page 19, line 20.

Strike: "stranded costs"

Insert: "transition"

74. Page 19, line 21.

Strike: "stranded"

Insert: "transition"

75. Page 19, line 24.

Strike: "stranded"

Insert: "transition"

76. Page 19, line 25.

Strike: "Stranded"

Insert: "Transition"

77. Page 19, line 27.

Strike: "Stranded"

Insert: "Transition"

78. Page 19, line 29.

Strike: "stranded costs"

Insert: "transition"

79. Page 20, line 8.

Strike: "customer choice"

Insert: "transition"

80. Page 20, line 11.

Strike: "stranded"

Insert: "transition"

81. Page 20, line 12.

Strike: "stranded"

Insert: "transition"

82. Page 20, line 13.

Strike: "stranded costs"

Insert: "transition"

83. Page 20, line 14.

Strike: "stranded costs"

Insert: "transition"

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84. Page 20, line 19.

Strike: "stranded costs"

Insert: "transition"

85. Page 20, line 21.

Strike: "Stranded costs"

Insert: "Transition"

86. Page 20, line 22.

Strike: "stranded"

Insert: "transition"

87. Page 20, line 24.

Strike: "Stranded costs"

Insert: "Transition charges"

Strike: "stranded costs"

Insert: "transition cost"

88. Page 20, line 25.

Strike: "stranded"

Insert: "transition"

89. Page 20, line 26.

Strike: "stranded"

Insert: "transition"

Strike: "stranded costs"

Insert: "transition cost"

90. Page 20, line 28.

Strike: "stranded" in both places

Insert: "transition" in both places

91. Page 20, line 29.

Strike: "stranded costs"

Insert: "transition"

Strike: "stranded"

Insert: "transition"

92. Page 20, line 30.

Strike: "stranded"

Insert: "transition"

93. Page 21, line 1.

Strike: "stranded costs"

Insert: "transition"

Strike: "stranded"

Insert: "transition"

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94. Page 22, line 2 through page 26, line 6.

Strike: section 16 through section 23 in their entirety

Insert: "**Section 14.** Section 69-8-301, MCA, is amended to read:

"69-8-301. Cooperative utility -- transition plan for customer choice. (1) Except as provided in 69-8-311, on or before July 1, 2006, the local governing body of a cooperative utility shall adopt a transition plan.

(2) (a) Except as provided in subsection (2)(b), transition plans must contain a transition period that may not end later than July 1, ~~2007~~ 2027. At the conclusion of the transition period, all customers must have the opportunity to choose an electricity supplier.

(b) If after a pilot program for customers of a cooperative utility with loads less than 1,000 kilowatts a competitive market, technology, or other conditions precedent to full customer choice have not developed, then the transition plan may be altered by the cooperative utility's governing body for those customers.

(3) This chapter does not require the cooperative utility to divest itself of any generation, transmission, or distribution assets or prohibit a cooperative utility from divesting itself voluntarily of those assets.

(4) A cooperative utility's local governing body shall certify to the commission that the local governing body has adopted a transition plan. In the cooperative utility's certification filing, the cooperative utility shall provide to the commission documentation that the cooperative utility's transition plan is consistent with this chapter.""

Renumber: subsequent sections

95. Page 27, line 11.

Strike: "customer choice"

Insert: "transition"

96. Page 28, line 14.

Strike: "and"

Insert: ", "

97. Page 28, line 15.

Following: "~~69-8-501~~"

Insert: ", and the energy and telecommunications interim committee provided for in [section 3]"

98. Page 28, line 16.

Strike: "and"

Insert: ", "

99. Page 28, line 17.

Following: "~~committee~~"

Insert: "and the energy and telecommunications interim committee"

100. Page 28, line 20.

Following: "~~committee~~"

Insert: "and the energy and telecommunications interim committee"

101. Page 29, line 12.

Strike: "customer choice"

Insert: "transition"

102. Page 30, line 3.

Strike: "customer choice"

Insert: "transition"

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103. Page 30, line 4.

Strike: "customer choice"

Insert: "transition"

104. Page 30, line 5.

Strike: "customer choice"

Insert: "transition"

105. Page 30, line 13 through line 17.

Strike: subsections (7)(a) and (7)(b) in their entirety

Insert: "(7)(a) After July 1, 2010, the commission shall continuously monitor whether or not workable competition has developed for small customers.

(b) If the commission determines that workable competition has developed for small customers after July 1, 2010, the commission shall provide a report to the legislature that includes recommendations for legislative implementation of customer choice for small customers."

106. Page 32, line 3.

Strike: "stranded costs"

Insert: "transition"

107. Page 32, line 14.

Strike: "**Stranded**"

Insert: "**Transition**"

108. Page 32, line 15.

Strike: "stranded"

Insert: "transition"

109. Page 32, line 16.

Strike: "stranded costs" in both places

Insert: "transition" in both places

110. Page 32, line 18.

Strike: "stranded costs"

Insert: "transition"

111. Page 32, line 19.

Strike: "stranded costs"

Insert: "transition"

112. Page 32, line 20.

Strike: "stranded costs"

Insert: "transition"

113. Page 32, line 24.

Strike: "stranded"

Insert: "transition"

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114. Page 32, line 25.

Strike: "stranded costs"

Insert: "transition"

115. Page 32, line 28.

Strike: "stranded costs"

Insert: "transition"

116. Page 33, line 1.

Strike: "stranded costs"

Insert: "transition"

Strike: "stranded"

Insert: "transition"

117. Page 33, line 2.

Strike: "stranded"

Insert: "transition"

118. Page 33, line 3.

Strike: "stranded costs"

Insert: "transition"

119. Page 33, line 4.

Strike: "stranded costs"

Insert: "transition"

120. Page 33, line 5.

Strike: "stranded costs"

Insert: "transition"

121. Page 33, line 6.

Strike: "stranded costs"

Insert: "transition"

122. Page 33, line 7.

Strike: "stranded costs"

Insert: "transition"

123. Page 33, line 9 through line 10.

Strike: "stranded costs" on line 9

Insert: "transition"

Strike: "stranded" on line 9 through "costs" on line 10

Insert: "transition"

Strike: "stranded costs" on line 10

Insert: "transition"

124. Page 33, line 11.

Strike: "stranded costs"

Insert: "transition"

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125. Page 33, line 12.

Strike: "stranded costs"

Insert: "transition"

126. Page 33, line 14.

Strike: "stranded"

Insert: "transition"

127. Page 33, line 15.

Strike: "stranded"

Insert: "transition"

Strike: "stranded costs"

Insert: "transition"

128. Page 33, line 17.

Strike: "stranded costs"

Insert: "transition"

129. Page 33, line 18.

Strike: "stranded costs"

Insert: "transition"

130. Page 33, line 19.

Strike: "stranded costs"

Insert: "transition"

131. Page 33, line 20.

Strike: "stranded costs"

Insert: "transition"

132. Page 33, line 23.

Strike: "stranded costs" in both places

Insert: "transition" in both places

133. Page 33, line 24.

Strike: "stranded costs" in both places

Insert: "transition" in both places

134. Page 33, line 29.

Strike: "stranded costs"

Insert: "transition"

135. Page 33, line 30.

Strike: "stranded"

Insert: "transition"

136. Page 34, line 1 through line 2.

Strike: the first "stranded"

Insert: "transition"

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Strike: "stranded" on line 1 through "costs" on line 2

Insert: "transition"

Strike: "stranded costs" on line 2

Insert: "transition"

137. Page 34, line 3.

Strike: "stranded costs"

Insert: "transition"

138. Page 34, line 4.

Strike: "stranded costs"

Insert: "transition"

139. Page 34, line 16.

Strike: "stranded costs"

Insert: "transition"

140. Page 34, line 24.

Strike: "stranded costs"

Insert: "transition"

141. Page 34, line 30.

Strike: "stranded costs" in both places

Insert: "transition" in both places

142. Page 35, line 1.

Strike: "stranded costs"

Insert: "transition"

143. Page 35, line 2.

Strike: "stranded costs"

Insert: "transition"

144. Page 35, line 4.

Strike: "stranded costs"

Insert: "transition"

145. Page 35, line 5.

Strike: "stranded costs"

Insert: "transition"

146. Page 35, line 6.

Strike: "Stranded costs"

Insert: "Transition"

147. Page 35, line 7.

Strike: "Stranded costs"

Insert: "Transition"

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148. Page 35, line 8.

Strike: "stranded costs"

Insert: "transition"

149. Page 35, line 9 through line 10.

Strike: "stranded" on line 9 through "costs" on line 10

Insert: "transition"

150. Page 35, line 11.

Strike: "stranded costs"

Insert: "transition"

151. Page 35, line 12.

Strike: "stranded costs"

Insert: "transition"

152. Page 35, line 13.

Strike: "stranded costs"

Insert: "transition"

153. Page 35, line 14.

Strike: "stranded costs"

Insert: "transition"

154. Page 35, line 15.

Strike: "stranded costs"

Insert: "transition"

155. Page 35, line 16.

Strike: "Stranded costs"

Insert: "Transition"

156. Page 35, line 17.

Strike: "stranded costs"

Insert: "transition"

157. Page 35, line 19.

Strike: "stranded costs"

Insert: "transition"

158. Page 35, line 21.

Strike: "stranded costs"

Insert: "transition"

159. Page 35, line 25.

Strike: "stranded costs"

Insert: "transition"

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160. Page 36, line 6.

Strike: "stranded costs"

Insert: "transition"

161. Page 36, line 8.

Strike: "stranded costs"

Insert: "transition"

162. Page 36, line 10.

Strike: "stranded costs"

Insert: "transition"

163. Page 36, line 11.

Strike: "stranded costs"

Insert: "transition"

164. Page 36, line 12.

Strike: "stranded costs"

Insert: "transition"

165. Page 36, line 14.

Strike: "stranded costs"

Insert: "transition"

166. Page 36, line 15.

Strike: "stranded costs"

Insert: "transition"

167. Page 36, line 18.

Strike: "stranded costs" in both places

Insert: "transition"

168. Page 36, line 19.

Strike: "stranded costs"

Insert: "transition"

169. Page 36, line 20.

Strike: "stranded costs"

Insert: "transition"

170. Page 36, line 24.

Strike: "stranded costs"

Insert: "transition"

171. Page 36, line 25.

Strike: "stranded costs"

Insert: "transition"

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172. Page 36, line 27.
Strike: "Stranded costs"
Insert: "Transition"

173. Page 36, line 28.
Strike: "stranded costs"
Insert: "transition"

174. Page 36, line 29.
Strike: "stranded costs"
Insert: "transition"

175. Page 36, line 30.
Strike: "stranded costs"
Insert: "transition"

176. Page 37, line 1.
Strike: "stranded costs"
Insert: "transition"

177. Page 37, line 4.
Strike: "stranded costs"
Insert: "transition"

178. Page 37, line 5.
Strike: "stranded costs"
Insert: "transition"

179. Page 37, line 9.
Strike: "stranded costs"
Insert: "transition"

180. Page 37, line 10.
Strike: "stranded costs"
Insert: "transition"

181. Page 37, line 12.
Strike: "stranded costs"
Insert: "transition"

182. Page 37, line 15.
Strike: "stranded costs"
Insert: "transition"

183. Page 37, line 16.
Strike: "stranded costs"
Insert: "transition"

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184. Page 37, line 18.
Strike: "stranded costs"
Insert: "transition"

185. Page 37, line 19.
Strike: "stranded costs"
Insert: "transition"

186. Page 37, line 21.
Strike: "stranded costs"
Insert: "transition"

187. Page 37, line 22.
Strike: "stranded costs"
Insert: "transition"

188. Page 37, line 24.
Strike: "stranded costs"
Insert: "transition"

189. Page 37, line 26.
Strike: "stranded costs"
Insert: "transition"

190. Page 37, line 28.
Strike: "stranded costs"
Insert: "transition"

191. Page 37, line 30.
Strike: "stranded costs"
Insert: "transition"

192. Page 38, line 2.
Strike: "stranded costs"
Insert: "transition"

193. Page 38, line 6.
Strike: "stranded costs"
Insert: "transition"

194. Page 38, line 7.
Strike: "stranded costs"
Insert: "transition"

195. Page 38, line 8.
Strike: "stranded costs"
Insert: "transition"

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196. Page 38, line 16.

Strike: "stranded costs"

Insert: "transition"

197. Page 38, line 19.

Strike: "stranded costs"

Insert: "transition"

198. Page 38, line 20.

Strike: "stranded costs"

Insert: "transition"

199. Page 38, line 21.

Strike: "stranded costs"

Insert: "transition"

200. Page 38, line 25.

Strike: "stranded costs"

Insert: "transition"

201. Page 38, line 26.

Strike: "stranded costs"

Insert: "transition"

202. Page 38, line 27 through line 28.

Strike: "stranded costs" on line 27

Insert: "transition"

Strike: "stranded" on line 27 through "costs" on line 28

Insert: "transition"

203. Page 39, line 5.

Strike: "stranded costs"

Insert: "transition"

204. Page 39, line 6.

Strike: "stranded costs"

Insert: "transition"

205. Page 39, line 7.

Strike: "Stranded costs"

Insert: "Transition"

206. Page 39, line 8.

Strike: "stranded costs"

Insert: "transition"

207. Page 39, line 11.

Strike: "stranded costs"

Insert: "transition"

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208. Page 39, line 12.

Strike: "stranded costs"

Insert: "transition"

209. Page 39, line 13 through line 14.

Strike: "stranded" on line 13 through "costs" on line 14

Insert: "transition"

210. Page 39, line 16 through line 17.

Strike: "stranded" on line 16 through "costs" on line 17

Insert: "transition"

211. Page 39, line 18.

Strike: "stranded costs" in both places

Insert: "transition" in both places

212. Page 39, line 20.

Strike: "stranded costs"

Insert: "transition"

Strike: "Stranded costs"

Insert: "Transition"

213. Page 39, line 21.

Strike: "stranded costs"

Insert: "transition"

214. Page 39, line 23.

Strike: "stranded costs"

Insert: "transition"

215. Page 39, line 24.

Strike: "stranded"

Insert: "transition"

216. Page 39, line 26.

Strike: "stranded costs"

Insert: "transition"

217. Page 39, line 28.

Strike: "stranded costs"

Insert: "transition"

218. Page 39, line 30.

Strike: "stranded costs"

Insert: "transition"

219. Page 40, line 1.

Strike: "stranded costs"

Insert: "transition"

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220. Page 40, line 3.

Strike: "stranded costs"

Insert: "transition"

221. Page 40, line 6.

Strike: "stranded costs"

Insert: "transition"

222. Page 40, line 7.

Strike: "stranded costs"

Insert: "transition"

223. Page 40, line 9.

Strike: "stranded costs"

Insert: "transition"

224. Page 40, line 10.

Strike: "stranded costs"

Insert: "transition"

225. Page 40, line 11.

Strike: "stranded"

Insert: "transition"

226. Page 40, line 19.

Insert: "NEW SECTION. Section 22. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 5, chapter 5, part 2, and the provisions of Title 5, chapter 5, part 2, apply to [section 3]."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

4/2/2003

SB 485, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

April 2, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 100** sponsored by Senator Grimes and **Senate Bill 104** sponsored by Senator Tester on April 2, 2003.

Sincerely,

STATE INTERNET/BBS COPY

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JUDY MARTZ
Governor

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, April 3, 2003. Motion carried.

Senate adjourned at 6:05 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTY-FIRST LEGISLATIVE DAY**

Helena, Montana
April 3, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Ellingson, excused. Quorum present.

The presiding officer has authenticated the daily journal for the seventieth legislative day.

REPORTS OF STANDING COMMITTEES

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):
HB 270, be amended as follows:

4/2/2003

1. Title, page 1, line 4.

Following: "USE"

Insert: "OR SALE"

Strike: "FLAMMABLE"

2. Title, page 5.

Following: "SYSTEMS"

Insert: "THAT ARE NOT INCLUDED IN THE LIST OF SAFE ALTERNATIVE AIR CONDITIONING
SUBSTITUTES PUBLISHED BY THE ENVIRONMENTAL PROTECTION AGENCY"

3. Page 1, line 12.

Following: "public."

Insert: "(2)"

Following: "may"

Strike: "not"

ReNUMBER: subsequent subsections

4. Page 1, line 13.

Strike: "any"

Insert: "only"

Strike: "is flammable"

Insert: "has been included in the list published by the United States environmental protection agency as a safe alternative
motor vehicle air conditioning substitute for chlorofluorocarbon-12 pursuant to 42 U.S.C. 7671k(c)"

5. Page 1, line 14.

Following: "equip"

Insert: "or maintain"

Following: "the second equipment"

Insert: "or refrigerants"

6. Page 1, line 15.

Strike: "does"

Insert: "do"

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7. Page 1, line 16.

Following: "in"

Insert: "[section 2] and"

8. Page 1, line 19.

Insert: "NEW SECTION. Section 2. Air conditioning equipment -- sale prohibited. (1) Refrigerant not allowed to be used pursuant to [section 1] may not be sold for use in motor vehicles in Montana.

(2) Motor vehicles and special mobile equipment with air conditioning equipment that have refrigerants not allowed in [section 1], if installed prior to [the effective date of this act], are not subject to any penalties provided for under Title 61, chapter 9."

Renumber: subsequent sections

9. Page 1, line 20.

Strike: "[Section 1] is"

Insert: "[Sections 1 and 2] are"

10. Page 1, line 21.

Strike: "[section 1]"

Insert: "[sections 1 and 2]"

And, as amended, be concurred in. Report adopted.

HB 369, be concurred in. Report adopted.

HB 538, be amended as follows:

1. Title, page 2, line 18.

Following: "23-2-502,"

Insert: "23-2-508,"

2. Title, page 2, line 23.

Following: "61-3-456,"

Strike: "61-3-518,"

3. Title, page 2, line 24.

Strike: "23-2-508,"

4. Title, page 2, line 25.

Following: "23-2-813,"

Strike: "AND"

Following: "61-3-105,"

Insert: "61-3-305, AND 61-3-518,"

5. Page 4, line 14.

Following: "model,"

Insert: "manufacturer's designated model"

6. Page 5, line 14.

Insert: "(5) If the application is for a certificate of title to a camper and if a certificate of title properly assigned by the prior owner is not available, the application must be accompanied by a notarized bill of sale or a conditional

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sales contract.

(6) If the application is for a certificate of title to a motorboat, a personal watercraft, a sailboat that is 12 feet in length or longer, or a snowmobile and a certificate of title properly assigned by the prior owner is not available, the application must be accompanied by a notarized bill of sale, an invoice, the vehicle's current registration receipt, or a certificate of number showing the transfer of ownership, which may be used to show the transfer of ownership for a motorboat, personal watercraft, or sailboat from the immediate prior owner to the applicant."

7. Page 9, line 18.

Following: "heir"

Insert: "-- small estates"

Following: "(1)"

Strike: "The"

Insert: "Subject to the limitations of Title 72, chapter 3, part 11, the"

8. Page 12, lines 2 through 3.

Following: "Upon"

Strike: "receipt" on line 2 through "\$5" on line 3

Insert: "payment of the fee required in 61-3-203"

9. Page 23, line 17.

Insert: "Section 19. Section 23-2-508, MCA, is amended to read:

"23-2-508. Certificate of ownership -- filing of security interests title. (1) Except as provided in subsection (9) (3), a motorboat or sailboat 12 feet in length or longer may not be operated upon the waters of the state unless a certificate of ownership title has first been obtained from the department of justice in accordance with the laws of this state.

(2) ~~The owner of~~ Unless expressly exempted, the provisions of Title 61, chapter 3, parts 1 and 2, apply to a motorboat or sailboat 12 feet in length or longer shall apply for a certificate of ownership and a certificate of number with the county treasurer of the county in which the owner resides, upon forms furnished by the department of justice. The forms must require the following information:

- ~~_____ (a) name of the owner;~~
- ~~_____ (b) residence of the owner, by town or county;~~
- ~~_____ (c) business or home address of the owner;~~
- ~~_____ (d) name and address of any lienholder;~~
- ~~_____ (e) amount due under any contract or lien;~~
- ~~_____ (f) name of the manufacturer;~~
- ~~_____ (g) model number or name;~~
- ~~_____ (h) identification number;~~
- ~~_____ (i) name and address of the dealer or other person from whom acquired, if known; and~~
- ~~_____ (j) other information that the department of justice may require.~~

~~_____ (3) The application is to be accompanied by documentation of ownership, such as an invoice, a bill of sale, a foreign title, an official certificate of boat number, a fee in lieu of tax receipt, or a certificate of ownership of a trailer purchased with the motorboat or sailboat. An applicant who fails to provide proof of ownership shall provide a certified statement describing how the motorboat or sailboat 12 feet in length or longer was acquired, from whom acquired, if known, and other information requested by the department of justice.~~

~~_____ (4) If a certificate of ownership has previously been issued under the provisions of this part, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to motorboats or sailboats 12 feet in length or longer that are purchased as new and unused vessels or that were operated when the provisions of this part were not in force and effect.~~

~~_____ (5) A motorboat or sailboat 12 feet in length or longer that does not have a manufacturer's or other identifying~~

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number on the motorboat or sailboat must be assigned an identification number by the department. A fee of \$1 must be paid to the department for an assignment of number.

____ (6) Upon completion of the application, the county treasurer shall issue to the applicant two copies of the certificate of number application, one of which must be marked "file copy". The treasurer shall forward one copy and the original application for a certificate of ownership to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership containing that information in the application considered necessary by the department and a permanent boat number. The certificate of ownership need not be renewed annually and is valid as long as the person holding it owns the vessel.

____ (7) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

____ (8) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

____ (9)(3) A person who, on July 1, 1988, is the owner of a has owned the same motorboat or sailboat 12 feet in length or longer since July 1, 1988, with a valid certificate of number issued by the state is not required to file an application for a certificate of ownership title for the motorboat or sailboat unless the person transfers a part of the person's interest in the motorboat or sailboat or renews the certificate of number for the motorboat or sailboat.

____ (10) The department of justice may not file a voluntary security interest or lien unless it is accompanied by or specified in the application for a certificate of ownership of the boat encumbered. If the approved lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete boat description, the amount of the lien, and the signature of the debtor. The department of justice shall file voluntary security interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the boat encumbered. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county in which the boat is to be registered. The owner of a boat is the person entitled to operate and possess the boat.

____ (11) A security interest in a boat held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9A.

____ (12) Whenever a security interest or lien is filed against a boat that is subject to two security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE: This boat is subject to additional security interest on file with the Department of Justice." No other information regarding the additional security interests need be endorsed on the certificate.

____ (13) Satisfactions or statements of release filed with the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

____ (14) Except as provided in subsection (15), a voluntary security interest or lien is perfected on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

____ (15) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department of justice. On that date, the department of justice shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department of justice, of the existence of the security interest.

____ (16) Upon default under a chattel mortgage or conditional sales contract covering a boat, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a boat, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

____ (17) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel

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mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that the person fails to file the satisfaction:

_____(18) Upon receipt of notice of any involuntary liens or attachments against the record of any boat registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both:

_____(19) It is not necessary to refile with the department of justice any instruments on file in the office of the county clerk and recorder on October 1, 1989:

_____(20) A fee of \$4 must be paid to the department of justice to file any security interest or other lien against a boat. The \$4 fee must cover the cost of filing a satisfaction or release of the security interest and the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of \$4 must be paid to the department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file with the department of justice or for filing an assignment of any security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the state general fund in accordance with 15-1-504."

Renumber: subsequent sections

10. Page 23, line 25.

Strike: "may"

Insert: "must"

Strike: "only"

11. Page 25, line 2.

Strike: "fee"

Insert: "feet"

12. Page 48, line 12.

Following: "the"

Insert: "manufacturer's designated model"

13. Page 63, line 27.

Following: "number; the"

Insert: "manufacturer's designated model"

Following: "year"

Insert: "of manufacture"

14. Page 72, line 17.

Following: "61-3-202(8)"

Strike: "[section 12(3)]"

Insert: "61-3-203"

15. Page 75, line 5.

Strike: "Registration"

Insert: "Except as provided in 61-3-562, vehicle registration"

16. Page 81, line 10 through line 13.

Strike: section 68 in its entirety

Renumber: subsequent sections

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17. Page 92, line 8.

Strike: "23-2-508,"

18. Page 92, line 9.

Following: "23-2-813,"

Strike: "and"

Following: "61-3-105,"

Insert: "61-3-305, and 61-3-518,"

19. Page 92, line 17.

Strike: "44"

Insert: "45"

20. Page 92, line 18.

Strike: "44"

Insert: "45"

21. Page 92.

Following: line 18

Insert: "NEW SECTION. Section 83. Coordination instruction. (1) If House Bill No. 261 and [this act] are both passed and approved, then:

(a) [Sections 4 through 7] of House Bill No. 261, amending 23-2-508, 23-2-611, 23-2-811, and 61-3-203, are void.

(b) Section 44 of [this act], amending 61-3-103, must include as a new subsection (9):

(9) A fee of \$10 must be paid to the department by a vehicle owner if, following satisfaction or release of a security interest and its removal from the department's records, the vehicle owner requests issuance of a new certificate of title without the security interest or lien shown on the face of the title. The \$10 fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550.

(c) [Section 51] of [this act], amending 61-3-203, must read:

"61-3-203. Fee for original certificate of ownership and transfer of registration title -- disposition. A ~~charge~~ person applying for a certificate of title shall pay a fee of \$5 \$10 must be made for issuance of an original certificate of ~~ownership~~ title, and for a transfer of registration, which ~~The fee~~ The fee must be collected by the county treasurer ~~or by an authorized agent of the department at the time of application.~~ An additional fee of \$2 must be paid for light vehicles, trucks and buses weighing less than 1 ton, and logging trucks. The fees must be ~~paid to the county treasurer or agent of the department and, of the \$10 fee, \$5 must be forwarded to the department of revenue and~~ paid to the county treasurer or agent of the department and, of the \$10 fee, \$5 must be forwarded to the department of revenue and deposited in the state general fund. The remaining \$5 must be forwarded to the department for deposit in the motor vehicle information technology system account provided for in 61-3-550."

(d) Section 52 of [this act], amending 61-3-204, must read:

"61-3-204. ~~Lost certificates~~ Replacement certificate of title -- application. ~~(1) In the event any~~ If a certificate of ~~ownership~~ title is lost, ~~stolen, destroyed, mutilated, or becomes illegible; or if the owner wants to update~~ personal information on the electronic record of title or have a replacement certificate of title issued with updated information, the owner ~~shall immediately make application for and obtain,~~ as shown on the electronic record of title, may apply for and request the department to issue a duplicate thereof, upon furnishing replacement certificate of title. The application must include satisfactory evidence of ~~such the facts requiring the replacement certificate of title and upon~~ payment of ~~be accompanied by a fee of \$3 \$10. Revenue from this~~ Of the \$10 fee, \$5 must be deposited in the state general fund in accordance with 15-1-504, and the remaining \$5 must be forwarded to the department for deposit in the motor vehicle information technology system account provided for in 61-3-550.

(2) Each replacement certificate of title issued by the department must contain the following statement:

"This replacement voids any previously issued title.""

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(2) If House Bill No. 698 and [this act] are both passed and approved, then [section 3] of House Bill No. 698 is void and [section 60] of [this act], amending 61-3-303, must read:

"61-3-303. Application for registration ~~Registration -- process -- fees.~~ (1) Each owner of A Montana resident who owns a motor vehicle operated or driven upon the public highways of this state shall ~~for each~~ register the motor vehicle ~~owned, except as otherwise provided in this section, file in the office of the county treasurer in the county where the owner permanently resides at the time of making the application or, if the vehicle is owned by a corporation or used primarily for commercial purposes, in the taxing jurisdiction of the county where the vehicle is permanently assigned an application for registration or reregistration on a form prescribed by the department. The application must contain:~~

~~_____ (a) the name and address of the owner, giving the county, school district, and town or city within whose corporate limits the motor vehicle is taxable, if taxable, or within whose corporate limits the owner's residence is located if the motor vehicle is not taxable;~~

~~_____ (b) the name and address of the holder of any security interest in the motor vehicle;~~

~~_____ (c) a description of the motor vehicle, including make, year model, engine or serial number, manufacturer's model or letter, gross weight, declared weight on all trucks for which the manufacturer's rated capacity is 1 ton or less, and type of body and, if a truck, the manufacturer's rated capacity;~~

~~_____ (d) the declared weight on all trailers operating intrastate, except travel trailers or trailers and semitrailers registered as provided in 61-3-711 through 61-3-733;~~

~~_____ (e) a space in which the person registering the vehicle may indicate the person's desire to donate \$1 or more to promote awareness and education efforts for procurement of organ and tissue donations for anatomical gifts; and~~

~~_____ (f) other information that the department may require.~~

(2) (a) Except as provided in subsection (3), the county treasurer shall register any vehicle for which:

(i) as of the date that the vehicle is to be registered, the owner delivers an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

(ii) the county treasurer confirms that the department has an electronic record of title for the vehicle as provided under 61-3-101.

(b) To register a vehicle, the county treasurer shall update the electronic record of title maintained by the department under 61-3-101 by entering the fees paid and recording any changes to the recorded data.

(3) (a) A county treasurer shall register a motor vehicle for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer may ask the vehicle owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer may register a motor vehicle for which the new owner cannot present the previously issued certificate of title only as authorized by the department under 61-3-342.

(4) The department or the county treasurer shall determine the amount of fees, including local option taxes or fees, to be collected at the time of registration for each light vehicle subject to a registration fee under 61-3-560 through 61-3-562 and for each bus, truck having a manufacturer's rated capacity of more than 1 ton, and truck tractor subject to a fee in lieu of tax under 61-3-529. The county treasurer shall collect the registration fee, other appropriate fees, and local option taxes or fees, if applicable, on each motor vehicle at the time of its registration.

~~(2)(5)~~ A person who files an application for registration or reregistration of seeks to register a motor vehicle, except of a mobile home or a manufactured home as those terms are defined in 15-1-101(1), shall upon the filing of the application pay to the county treasurer:

(a) the registration fee, as provided in 61-3-311 and 61-3-321 or 61-3-456;

(b) except as provided in 61-3-456 or unless it has been previously paid, the motor vehicle fees in lieu of tax or registration fees under 61-3-560 through 61-3-562 imposed against the vehicle for the current year of registration and the immediately previous year; and

(c) a donation of \$1 or more if the person has indicated on the application that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact

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anatomical gifts; and

(d) a donation of \$1 or more if the person has indicated on the application that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.

~~(3)(6)~~ The application may not be accepted by the county treasurer may not issue a registration receipt or license plates for the vehicle to the owner unless the owner makes the payments required by subsection (2) (5) accompany the application. Except as provided in 61-3-560 through 61-3-562, the department may not assess or impose and the county treasurer may not collect taxes or fees for a period other than:

(a) the current year; and

(b) the immediately previous year if the vehicle was not registered or operated on the highways of the state, regardless of the period of time since the vehicle was previously registered or operated.

~~(4)(7)~~ The department may make full and complete investigation of the registration status of the vehicle. An applicant for registration or reregistration shall submit proof from appropriate records of the proper county at the request of the department. A person seeking to register a motor vehicle under this section shall provide additional information to support the registration to the department, if requested.

~~(5)(8)~~ Revenue that accrues from the voluntary donation provided in subsection (2)(c) (5)(c) must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) Revenue that accrues from the voluntary donation provided in subsection (5)(d) must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of the account established in [section 2 of House Bill No. 698] to support activities related to education regarding prevention of traumatic brain injury."

22. Page 92, line 24.

Strike: "41"

Insert: "42"

And, as amended, be concurred in. Report adopted.

HB 556, be amended as follows:

1. Title, page 1, line 8.

Following: "PLATES;"

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2, line 11.

Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

HB 369 - Senator Butcher moved to segregate **HB 369** from the Highways and Transportation Committee Reports, and further moved to adopt the committee reports on **HB 270, HB538 and HB556**. Motion carried.

JUDICIARY (Grimes, Chairman):

4/3/2003

HB 124, be concurred in. Report adopted.

HB 195, be concurred in. Report adopted.

HB 546, be concurred in. Report adopted.

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MOTIONS

HB 369 - Senator Butcher moved **HB 369** be taken from the Highway and Transportation Committee and rereferred to the committee on Finance. Motion carried.

HB 710 - Senator Taylor moved **HB 710** be taken from the table in the committee on Energy and Telecommunications, printed and placed on second reading the seventy-second day. Motion carried as follows:

Yeas: Anderson, Cooney, Curtiss, DePratu, Elliott, Gebhardt, Grimes, Kitzenberg, Mahlum, Mangan, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila.
Total 27

Nays: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Esp, Glaser, Hansen, Harrington, Johnson, Laible, McCarthy, McNutt, Shea, Sprague, Tash, Wheat, Zook, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: Ellingson.
Total 1

HB 719 - Senator Gebhardt moved **HB 719** be taken from the committee on State Administration, printed and placed on second reading. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Curtiss, Esp, Gebhardt, Glaser, Grimes, Harrington, Laible, Mangan, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Elliott, Hansen, Johnson, Kitzenberg, Mahlum, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: Ellingson.
Total 1

SB 485 - Senator Thomas moved consideration of **SB 485** be passed for the day. Motion carried.

HB 559 - Senator Thomas moved **HB 559** be taken from the committee on Highways and Transportation and rereferred to the committee on Taxation. Motion carried.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

4/2/2003

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SB 150, introduced by Johnson
SB 163, introduced by Mangan
SB 166, introduced by Bales
SB 220, introduced by F. Thomas

Senate joint resolution concurred in and returned to the Senate: 4/2/2003

SJR 9, introduced by Nelson

Senate bills concurred in and returned to the Senate: 4/3/2003

SB 24, introduced by Mangan
SB 135, introduced by F. Thomas
SB 197, introduced by Perry
SB 241, introduced by Shea
SB 249, introduced by Taylor
SB 254, introduced by Cooney
SB 262, introduced by Perry
SB 445, introduced by Barkus
SB 460, introduced by Story

Senate joint resolution concurred in and returned to the Senate: 4/3/2003

SJR 14, introduced by Curtiss

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 4/2/2003

SB 115, introduced by Mahlum
SB 152, introduced by Cocchiarella

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 4/3/2003

SB 86, introduced by Zook
SB 226, introduced by DePratu
SB 230, introduced by Cromley
SB 231, introduced by Cromley
SB 401, introduced by Wheat
SB 423, introduced by Black
SB 441, introduced by D. Ryan
SB 447, introduced by Grimes

House bills passed and transmitted to the Senate for concurrence: 4/3/2003

HB 758, introduced by Devlin
HB 767, introduced by Brueggeman

HB 381, introduced by Fuchs, requiring adoption by an affirmative roll call vote of two-thirds of all the members of

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the Legislature, passed the House and was transmitted to the Senate with the following vote:

4/3/2003

Yeas -59 Nays -39

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 489, introduced by Elliott, P. Clark, Cooney, Shockley, Wheat, referred to Highways and Transportation.

The following House bills were introduced, read first time, and referred to committee:

HB 381, introduced by Fuchs, Andersen, Balyeat, Barrett, Bookout-Reinicke, R. Brown, E. Clark, Facey, Fisher, Forrester, Gallus, Gillan, Golie, Haines, Hedges, Jackson, Lake, Lambert, Lange, Lawson, Lehman, Maedje, Matthews, Mendenhall, Mood, Morgan, A. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Ross, B. Ryan, Sales, Schrumpf, Shockley, Sinrud, B. Thomas, Wagman, Witt, Younkin, referred to Taxation.

HB 758, introduced by Devlin, Forrester, Gallus, Maedje, Shea, Tropila, referred to Business and Labor.

HB 767, introduced by Brueggeman, Stonington, referred to Finance and Claims.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 155 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Harrington.

Total 1

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

SB 297 failed as follows:

Yeas: Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Mahlum, Mangan, Pease, Ryan, Schmidt, Shea, Stonington, Story, Toole, Wheat.

Total 24

Nays: Anderson, Bales, Butcher, Cobb, Elliott, Esp, Hansen, Harrington, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Sprague, Squires, Stapleton, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

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Total 26

Paired: Ellingson, Aye; Nelson, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 332 failed as follows:

Yeas: Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Mangan, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Tester, Toole, Tropila, Wheat.

Total 23

Nays: Anderson, Bales, Barkus, Black, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Paired: Ellingson, Aye; Mr. President, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 407 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Pease, Perry, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 31

Nays: Cooney, Cromley, Elliott, Hansen, Harrington, Johnson, McCarthy, Nelson, O'Neil, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Tester, Toole, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

SB 446 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

SB 461 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 42

Nays: Bohlinger, Cromley, DePratu, Glaser, Johnson, Sprague, Squires, Toole.

Total 8

Paired: Ellingson, Aye; Bohlinger, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 463 passed as follows:

Yeas: Anderson, Barkus, Black, Butcher, Cooney, DePratu, Gebhardt, Glaser, Grimes, Kitzenberg, Mahlum, Mangan, McGee, McNutt, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Wheat, Zook.

Total 28

Nays: Bales, Bohlinger, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Hansen, Harrington, Johnson, Laible, McCarthy, Nelson, O'Neil, Pease, Squires, Tester, Toole, Tropila, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

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SB 473 passed as follows:

Yeas: Bales, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 31

Nays: Anderson, Barkus, Black, Butcher, Cobb, Curtiss, Esp, Glaser, Laible, McGee, McNutt, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 19

Paired: Ellingson, Aye; Tash, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 474 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.
Total 37

Nays: Cobb, Cooney, Hansen, Harrington, Johnson, McCarthy, Roush, Schmidt, Stonington, Tester, Toole, Tropila.
Total 12

Absent or not voting: None.
Total 0

Excused: Ellingson.
Total 1

SB 475 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cooney, Curtiss, DePratu, Esp, Gebhardt, Grimes, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 35

Nays: Cobb, Cocchiarella, Cromley, Elliott, Glaser, Hansen, Harrington, Johnson, Laible, O'Neil, Perry, Sprague, Stapleton, Stonington.
Total 14

Absent or not voting: None.
Total 0

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Excused: Ellingson.
Total 1

SB 476 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Ellingson.
Total 1

SB 481 passed as follows:

Yeas: Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Mr. President.
Total 35

Nays: Anderson, Bales, Elliott, Esp, Gebhardt, Johnson, Laible, Mangan, Ryan, Story, Taylor, Tropila, Wheat, Zook.
Total 14

Absent or not voting: None.
Total 0

Excused: Ellingson.
Total 1

SB 484 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 42

Nays: Curtiss, Esp, Johnson, McGee, O'Neil, Sprague, Mr. President.
Total 7

Absent or not voting: None.
Total 0

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Excused: Ellingson.
Total 1

SB 487 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Toole.
Total 1

Absent or not voting: None.
Total 0

Excused: Ellingson.
Total 1

MOTIONS

SB 297- Senator Wheat moved he be allowed to change his vote on **SB 297**, third reading this day, from nay to yea.
Motion carried.

SB 297- Senator Mahlum moved he be allowed to change his vote on **SB 297**, third reading this day, from nay to yea.
Motion carried.

SB 484 - Senator Perry moved he be allowed to change his vote on **SB 484**, third reading this day, from nay to yea.
Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 130 - Senator Anderson moved **HB 130** be concurred in. Motion carried with Senator Hansen voting nay.

HB 186 - Senator Cooney moved **HB 186** be concurred in. Motion carried unanimously.

HB 230 - Senator Cocchiarella moved **HB 230** be concurred in. Motion carried unanimously.

HB 259 - Senator F. Thomas moved consideration of **HB 259** be placed at the bottom of the second reading board.
Motion carried.

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HB 396 - Senator Bales moved **HB 396** be concurred in. Motion carried as follows:

Yeas: Bales, Bohlinger, Cocchiarella, Cooney, Cromley, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 33

Nays: Anderson, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, McGee, O'Neil, Story, Taylor, Mr. President.
Total 16

Absent or not voting: None.
Total 0

Excused: Ellingson.
Total 1

HB 445 - Senator Barkus moved **HB 445** be concurred in. Motion carried with Senators Anderson, Gebhardt and McGee voting nay.

HB 482 - Senator Glaser moved **HB 482** be concurred in. Motion carried with Senators McGee and O'Neil voting nay.

HB 555 - Senator Gebhardt moved **HB 555** be concurred in. Motion carried unanimously.

HB 580 - Senator Stonington moved **HB 580** be concurred in. Motion carried unanimously.

HB 588 - Senator Cocchiarella moved consideration of **HB 588** be placed at the bottom of the second reading board. Motion carried unanimously.

HB 637 - Senator Story moved **HB 637** be concurred in. Motion carried with Senator Cromley voting nay.

Senators Elliott, Stonington and Keenan excused at this time.

HJR 12 - Senator Black moved **HJR 12** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook.
Total 38

Nays: Cooney, Esp, Hansen, Harrington, Nelson, Ryan, Toole, Wheat.
Total 8

Absent or not voting: None.
Total 0

Excused: Ellingson, Elliott, Stonington, Mr. President.
Total 4

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Senator Elliott present at this time.

HB 588 - Senator Cocchiarella moved **HB 588** be concurred in. Motion **failed** as follows:

Yeas: Anderson, Cobb, Cocchiarella, Elliott, Gebhardt, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Toole, Tropila, Wheat.
Total 23

Nays: Bales, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Esp, Glaser, Johnson, McGee, McNutt, Nelson, Perry, Stapleton, Story, Tash, Taylor, Tester, Thomas, Zook.
Total 23

Absent or not voting: Harrington.
Total 1

Excused: Ellingson, Stonington, Mr. President.
Total 3

Senators Keenan and Stonington present at this time.

HB 253 - Senator Esp moved **HB 253**, second reading copy, be amended as follows:

1. Page 1.

Following: line 23

Insert: "(3) (a) Printed election material described in subsection (1) that includes information about another candidate's voting record must include:

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue, if closely related in time; and

(iii) a statement, signed as provided in subsection (3)(b) that to the best of the signer's knowledge, the statements made about the other candidate's voting record are accurate and true.

(b) The statement described in subsection (3)(a) must be signed:

(i) by the candidate if the election material was prepared for the candidate or the candidate's political committee and includes information about another candidate's voting record; or

(ii) by the person financing the communication or the person's legal agent if the election material was not prepared for a candidate or a candidate's political committee.

Renumber: subsequent subsections

2. Page 1, line 25.

Strike: "and (2)"

Insert: "through (3)"

3. Page 1, line 28.

Strike: "and (2)"

Insert: "through (3)"

4. Page 1, line 29.

Strike: "discovering"

Insert: "discovery of or notification about"

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Following: "omission, the"

Insert: "candidate responsible for the material or the"

Following: "shall"

Insert: ": (a)"

5. Page 1, line 30.

Following: "days"

Strike: "and"

Insert: "of the discovery or notification;
(b)"

6. Page 2, line 1.

Strike: "and (2)"

Insert: "through (3); and
(c) withdraw any noncompliant communications from circulation as soon as reasonably possible"

7. Page 2, line 3 through page 3, line 7.

Strike: section 2 in its entirety

Amendment **adopted** with Senator McGee voting nay.

Senator Zook excused at this time.

HB 253 - Senator Cooney moved **HB 253**, as amended, be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 47

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: Ellingson, Zook.

Total 2

HB 468 - Senator Cooney moved **HB 468** be concurred in. Motion carried with Senator O'Neil voting nay.

**Committee of the Whole stood at ease so staff could prepare the second agenda of second reading bills.
Committee of the Whole resumed.**

HB 205 - Senator Stonington moved **HB 205** be concurred in. Motion carried unanimously.

HB 223 - Senator Cooney moved **HB 223** be concurred in. Motion carried unanimously.

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Senator Zook present at this time.

HB 293 - Senator Pease moved **HB 293** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 42

Nays: Bales, Curtiss, Esp, McGee, O'Neil, Taylor.

Total 6

Absent or not voting: None.

Total 0

Excused: Ellingson, Elliott.

Total 2

HB 304 - Senator Stonington moved **HB 304** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, Gebhardt, Glaser, Grimes, Johnson, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Thomas, Zook, Mr. President.

Total 30

Nays: Bales, Cooney, DePratu, Elliott, Esp, Hansen, Harrington, Kitzenberg, Laible, McGee, Nelson, Ryan, Schmidt, Squires, Story, Tester, Toole, Tropila, Wheat.

Total 19

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

HB 90 - Senator Cromley moved **HB 90**, second reading copy, be amended as follows:

1. Page 11, line 16.

Strike: "The"

Insert: "Unless the petition has been previously dismissed, the"

Amendment **adopted** unanimously.

HB 90 - Senator Cromley moved **HB 90**, as amended, be concurred in. Motion carried unanimously.

HB 384 - Senator Grimes moved **HB 384** be concurred in. Motion carried unanimously.

HB 484 - Senator Schmidt moved **HB 484** be concurred in. Motion carried unanimously.

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HB 512 - Senator Laible moved **HB 512** be concurred in. Motion carried unanimously.

HB 537 - Senator McCarthy moved **HB 537** be concurred in. After discussion, Senator McCarthy made a **substitute motion** that **HB 537**, second reading copy, be amended as follows:

1. Page 1, line 23 through line 24.

Strike: section 2 in its entirety

Renumber: subsequent sections

Amendment **adopted** unanimously.

HB 537 - Senator McCarthy moved **HB 537**, as amended, be concurred in. Motion carried unanimously.

HB 563 - Senator Stapleton moved **HB 563** be concurred in. After discussion, Senator Cobb made a **substitute motion** that **HB 563**, second reading copy, be amended as follows:

1. Title, page 1, lines 4 through 6.

Strike: "PROHIBITING" on line 4 through ";" on line 6

2. Title, page 1, line 8.

Strike: "13-13-213,"

3. Page 1, lines 13 through 28.

Strike: section 1 in its entirety

Renumber: subsequent sections

4. Page 4, line 15.

Strike: "(1)"

5. Page 4, lines 17 through 18.

Strike: subsection (2) in its entirety

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

HB 563 - Senator Stapleton's motion that **HB 563** be concurred carried as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Nays: Cobb, Cocchiarella, Cooney, Cromley, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

Members of the Finance committee excused at this time to attend meeting.

HB 385 - Senator Harrington moved **HB 385** be concurred in. Motion carried with McGee and O'Neil voting nay.

HB 456 - Senator Grimes moved **HB 456** be concurred in. Motion carried with Senators Gebhardt, McGee and O'Neil voting nay.

HB 474 - Senator Anderson moved **HB 474** be concurred in. Motion carried unanimously.

HB 517 - Senator Story moved **HB 517** be concurred in. Motion carried unanimously.

HB 524 - Senator Grimes moved **HB 524** be concurred in. Motion carried unanimously.

HB 525 - Senator Anderson moved **HB 525** be concurred in. Motion carried unanimously.

HB 536 - Senator Perry moved **HB 536** be concurred in. Motion carried with Senator Wheat voting nay.

HB 545 - Senator Curtiss moved **HB 545** be concurred in. Motion carried unanimously.

HB 259 - Senator DePratu moved **HB 259**, second reading copy, be amended as follows:

1. Title, page 1, line 5.

Strike: "HALFWAY" through "AND"

2. Page 1, line 19 through line 20.

Strike: "halfway" on line 19 through "between" on line 20

3. Page 1, line 20.

Strike: "and reference marker 132"

Amendment **adopted** unanimously.

HB 259 - Senator Curtiss moved **HB 259**, as amended, be concurred in. Motion carried unanimously.

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HB 489 - Senator Wheat moved **HB 489** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senator Thomas moved to **segregate HB 468 and HB 489** from the Committee of the Whole report. Senate resumed. President Pro Tempore McNutt in the chair. Chairman Tropila moved the remainder of the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

HB 489 - Senator Thomas moved **HB 489** be taken from second reading and rereferred to the committee on Finance. Motion carried.

HB 363- Senator Thomas moved **HB 363** be taken from second reading and rereferred to the committee on Finance. Motion carried.

HB 604 - Senator Thomas moved **HB 604** be taken from second reading and rereferred to the committee on Taxation. Motion carried.

MESSAGES FROM THE GOVERNOR

April 3, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 28** sponsored by Senator Mangan, **Senate Bill 75** sponsored by Senator Stapleton, **Senate Bill 84** sponsored by Senator Cocchiarella, **Senate Bill 109** sponsored by Senator McNutt, **Senate Bill 121** sponsored by Senator Glaser, **Senate Bill 216** sponsored by Senator Cocchiarella et al., **Senate Bill 221** sponsored by Senator Kitzenberg, **Senate Bill 253** sponsored by Senator Elliott, and **Senate Bill 398** sponsored by Senator Cromley on April 3, 2003.

Sincerely,
JUDY MARTZ
Governor

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Friday, April 4, 2003. Motion carried.

Senate adjourned at 5:36 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTY-SECOND LEGISLATIVE DAY**

Helena, Montana
April 4, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **SB 368, SB 471, SB 474, SB 481, SB 484, SB 487, SB 488, HB 107, HB 141, HB 203, HB 247, HB 358, HB 363, HB 404, HB 413, HB 451, HB 540, HB 553, HB 604, HB 640, HB 648, HB 669, HB 677, HB 689, HB 701, HB 720, HB 733, HB 734, HJR 29, HJR 31.**

Correctly printed: **SJR 30.**

Correctly engrossed: **SB 297, SB 332, SB 407, SB 461, SB 473, SB 474, SB 487, HB 266, HB 270, HB 424, HB 500, HB 538, HB 556.**

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SR 6 - Senator Wheat moved **SR 6** be adopted. Motion carried unanimously.

HB 8 - Senator Tester moved **HB 8** be concurred in. Motion carried unanimously.

HB 105 - Senator Cocchiarella moved **HB 105** be concurred in. Motion carried unanimously.

HB 141 - Senator Wheat moved **HB 141** be concurred in. Motion carried unanimously.

HB 203 - Senator Gebhardt moved **HB 203** be concurred in. Motion carried unanimously.

HB 266 - Senator Story moved **HB 266** be concurred in. Motion carried unanimously.

Members of the Finance committee excused at this time to attend meeting.

HB 358 - Senator Cromley moved **HB 358** be concurred in. Motion carried as follows:

Yeas: Anderson, Black, Bohlinger, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Glaser, Grimes, Hansen, Harrington, Mahlum, Mangan, McGee, O'Neil, Pease, Perry, Ryan, Squires, Stapleton, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

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Total 27

Nays: Ellingson, Elliott, Gebhardt, Laible, McNutt, Roush, Story.

Total 7

Absent or not voting: None.

Total 0

Excused: Bales, Barkus, Butcher, Cobb, Cooney, Johnson, Kitzenberg, McCarthy, Nelson, Schmidt, Shea, Sprague, Stonington, Tash, Zook, Mr. President.

Total 16

HB 410 - Senator D. Ryan moved **HB 410** be concurred in. Motion carried unanimously.

HB 424 - Senator D. Ryan moved **HB 424** be concurred in. Motion carried unanimously.

HB 431 - Senator DePratu moved **HB 431** be concurred in. Motion carried unanimously.

HB 451 - Senator Black moved **HB 451** be concurred in. After discussion, Senator Cromley made a **substitute motion** that **HB 451**, second reading copy, be amended as follows:

1. Title, line 7.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 1.

Following: line 27

Insert: "NEW SECTION. Section 3. Termination. [This act] terminates June 30, 2006."

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cocchiarella, Cromley, Ellingson, Elliott, Kitzenberg, Pease, Ryan, Squires, Toole, Tropila, Wheat.
Total 12

Nays: Anderson, Black, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Story, Taylor, Thomas.

Total 23

Absent or not voting: None.

Total 0

Excused: Bales, Barkus, Butcher, Cobb, Cooney, McCarthy, Nelson, Schmidt, Shea, Stapleton, Stonington, Tash, Tester, Zook, Mr. President.

Total 15

HB 451 - Senator Black's motion that **HB 451** be concurred in, carried as follows:

Yeas: Anderson, Black, Bohlinger, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Sprague, Story, Taylor, Thomas,

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Tropila, Wheat.
Total 28

Nays: Cromley, Ellingson, Elliott, Hansen, Kitzenberg, Toole.
Total 6

Absent or not voting: None.
Total 0

Excused: Bales, Barkus, Butcher, Cobb, Cooney, McCarthy, Nelson, Schmidt, Shea, Squires, Stapleton, Stonington, Tash, Tester, Zook, Mr. President.
Total 16

HB 509 - Senator Johnson moved **HB 509** be concurred in. Motion carried unanimously.

HB 523 - Senator Bohlinger moved **HB 523** be concurred in. After discussion, Senator Thomas made a **substitute motion** that consideration of **HB 523** be moved to the bottom of the board. Motion carried.

HB 640 - Senator McGee moved **HB 640** be concurred in. After discussion, Senator Thomas made a **substitute motion** that consideration of **HB 640** be moved to the bottom of the board. Motion carried.

HB 641 - Senator D. Ryan moved **HB 641**, second reading copy, be amended as follows:

1. Page 5, line 27.

Insert: "NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent sections

Amendment **adopted** unanimously.

HB 641 - Senator Story moved **HB 641**, as amended, be concurred in. Motion carried with Senators Cocchiarella, Cromley and Perry voting nay.

HB 648 - Senator Bales moved **HB 648** be concurred in. Motion carried unanimously.

HB 669 - Senator McGee moved **HB 669** be concurred in. Motion carried unanimously.

HB 404 - Senator Grimes moved **HB 404**, second reading copy, be amended as follows:

1. Title, line 4.

Following: "REQUIRING"

Strike: "ALLOWING"

Insert: "REQUIRING"

2. Title, line 7.

Following: "PROVIDING"

Strike: "LIMITED IMMUNITY FROM CIVIL DAMAGES FOR"

Following: "PRIVATE"

Strike: "EMPLOYERS"

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Insert: "THAT A REQUIRED RESPONSE IS AN OFFICIAL DUTY"

3. Page 1, line 12.

Following: "~~shall~~"

Strike: "MAY"

Insert: "shall"

4. Page 2, line 4 through line 6.

Following: "information." on line 4

Strike: remainder of line 4 through "SECTION." on line 6

5. Page 2, line 23 through line 25.

Strike: subsection (7) in its entirety

Amendment **adopted** with Senator Cromley voting nay.

HB 404 - Senator Grimes moved **HB 404**, as amended, be concurred in. Motion carried as follows:

Yeas: Anderson, Black, Bohlinger, Curtiss, DePratu, Gebhardt, Grimes, Hansen, Harrington, Johnson, Mahlum, Mangan, McNutt, Pease, Roush, Stapleton, Story, Taylor, Tropila.

Total 19

Nays: Cocchiarella, Cromley, Ellingson, Elliott, Esp, Glaser, Kitzenberg, Laible, McGee, O'Neil, Perry, Sprague, Squires, Toole, Wheat.

Total 15

Absent or not voting: None.

Total 0

Excused: Bales, Barkus, Butcher, Cobb, Cooney, McCarthy, Nelson, Ryan, Schmidt, Shea, Stonington, Tash, Tester, Thomas, Zook, Mr. President.

Total 16

HB 591 - Senator O'Neil moved **HB 591** be concurred in. Motion carried unanimously.

HB 680 - Senator Wheat moved **HB 680** be concurred in. Motion carried unanimously.

HB 698 - Senator DePratu moved **HB 698** be concurred in. Motion carried unanimously.

HB 733 - Senator Perry moved **HB 733** be concurred in. Motion carried unanimously.

HB 689 - Senator Gebhardt moved **HB 689**, second reading copy, be amended as follows:

1. Page 5, line 12.

Following: "41"

Insert: "a total of"

2. Page 5, line 13.

Strike: "A LOBBYIST"

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Insert: "one or more lobbyists"

Amendment **adopted** unanimously.

Senator McGee assumed the chair.

HB 689 - Senator Gebhardt moved **HB 689**, as amended, be concurred in. Motion carried with Senator Squires voting nay.

HJR 32 - Senator Tropila moved **HJR 32** be concurred in. Motion carried unanimously.

HB 6 - Senator Tropila moved **HB 6** be concurred in. Motion carried unanimously.

HB 734 - Senator McCarthy moved **HB 734** be concurred in. Motion carried unanimously.

Senator Tropila reassumed the chair.

HJR 26 - Senator McCarthy moved **HJR 26** be concurred in. Motion carried with Senators Esp, O'Neil and Perry voting nay.

HB 720 - Senator Story moved **HB 720** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Pro Tempore McNutt in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

FISH AND GAME (Sprague, Chairman):	4/2/2003
HB 100 , be concurred in. Report adopted.	
HB 241 , be amended as follows:	4/4/2003

1. Title, line 4.

Strike: "A MORATORIUM"

Insert: "RESTRICTIONS"

2. Title, line 5.

Strike: ", " through ", "

3. Title, line 7.

Following: "PROGRAMS;"

Insert: "AUTHORIZING EXPENDITURES FOR A LANDOWNER INCENTIVE PROGRAM;"

Strike: "ALL"

4. Title, line 9.

Strike: "THE MORATORIUM"

Insert: "A 2-YEAR"

5. Title, line 13.

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Following: "FOR"
Insert: "CERTAIN"

6. Page 1, line 20.
Strike: "Moratorium" through "upland"
Insert: "Upland"

7. Page 1, line 21.
Strike: "exception" through "projects"
Insert: "restrictions -- landowner incentive program"

8. Page 1, line 22.
Strike: "Except" through "for"
Insert: "For"

9. Page 1, line 23 through line 24.
Strike: "the department" on line 23 through "Money" on line 24
Insert: "money"
Strike: "sage grouse"
Insert: "upland game bird habitat enhancement"
Strike: "during" through "period" on line 24

10. Page 1.
Following: line 25
Insert: "(2) During the 2-year period provided for in subsection (1), the department may also expend up to \$1.4 million from the upland game bird funds, provided for in 87-1-246, as matching funds to protect sagebrush-grassland habitat associated with sage grouse leks and wintering areas through a landowner incentive program."
Renumber: subsequent subsections

11. Page 1, line 27.
Strike: "all"

12. Page 1, line 29.
Following: "each"
Insert: "type of"

13. Page 2, line 7.
Strike: "(2)"
Insert: "(3)"

14. Page 2, line 12.
Strike: "moratorium"
Insert: "2-year"
Strike: "sage" through "projects"
Following: "(1)"
Insert: "or (2)"

15. Page 2, line 13.

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Strike: "(2)"

Insert: "(3)"

16. Page 2, line 15.

Strike: "moratorium"

Insert: "2-year"

17. Page 3, line 15.

Following: "releases"

Insert: "as follows:

(i) at least 5% for release of captive-raised birds; and

(ii) at least 5% for capture and release of wild birds for translocation"

And, as amended, be concurred in. Report adopted.

HB 249, be concurred in. Report adopted.

4/2/2003

HB 558, be amended as follows:

1. Title, line 15.

Following: "PROVIDING"

Strike: "A"

Insert: "AN"

2. Page 2, line 15.

Strike: "\$15"

Insert: "\$16"

3. Page 3, line 1.

Strike: "50 cents"

Insert: "\$1.50"

4. Page 3, line 8.

Following: "THEN"

Insert: "[section 4] of Senate Bill No. 112, amending 23-2-615, is void and"

Following: "]"

Insert: ", amending 23-2-615,"

5. Page 3, line 17.

Strike: "\$15"

Insert: "\$16"

6. Page 4, line 4.

Strike: "50 cents"

Insert: "\$1.50"

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

4/3/2003

HB 695, be amended as follows:

STATE INTERNET/BBS COPY

1212

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1. Title, page 1, line 8.

Strike: "A MEDICAL EXPERT"

Insert: "AN INDIVIDUAL"

2. Title, page 1, line 9.

Following: "EXPERIENCE"

Strike: "PRIOR" through "ACTION"

3. Title, page 1, line 10 through line 11.

Strike: "THAT" on line 10 through "DEFENDANT'S" on line 11

Insert: "RELATED TO THE DIAGNOSIS OR PROGNOSIS AT ISSUE OR THE TYPE OF TREATMENT ADMINISTERED IN THE CASE"

4. Page 2, line 6.

Following: "(b)"

Strike: "a" through "provider"

Insert: "an individual"

5. Page 2, line 7 through line 9.

Following: line 6

Strike: "provider" through the second "practice" on line 9

Insert: "individual has had a minimum of 5 years of professional practice or teaching experience that is directly related to the diagnosis or prognosis at issue or the type of treatment administered in the case"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

April 2, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 185, "AN ACT GENERALLY REVISING LAWS GOVERNING COMMERCIAL DRIVER LICENSING TO CONFORM WITH REQUIREMENTS OF THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 (MCSIA) AND THE FEDERAL REGULATIONS IMPLEMENTING MCSIA; DEFINING "NONCOMMERCIAL MOTOR VEHICLE"; REVISING THE DEFINITIONS OF "COMMERCIAL MOTOR VEHICLE" AND "COMMERCIAL DRIVER'S LICENSE"; CLARIFYING THE REQUIREMENTS FOR OPERATION OF A COMMERCIAL

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MOTOR VEHICLE; REVISING THE REQUIREMENTS GOVERNING THE APPLICATION FOR AND RENEWAL OF A COMMERCIAL DRIVER'S LICENSE; REVISING REQUIREMENTS FOR REQUESTING DRIVING RECORDS FROM A PRIOR STATE OF LICENSURE; REVISING LICENSE SUSPENSION PERIODS AND COMPUTATION REQUIREMENTS FOR NONCOMMERCIAL AND COMMERCIAL MOTOR VEHICLE IMPLIED CONSENT LAWS; REVISING REQUIREMENTS FOR SUSPENSION OF A COMMERCIAL DRIVER'S LICENSE FOR MAJOR OFFENSES OR FOR CONDUCT OCCURRING WHILE OPERATING A NONCOMMERCIAL MOTOR VEHICLE; CLARIFYING THE REQUIREMENTS FOR SUSPENSION OF A COMMERCIAL DRIVER'S LICENSE FOR A PERSON WHO OPERATES A COMMERCIAL MOTOR VEHICLE WITHOUT A COMMERCIAL DRIVER'S LICENSE OR PROPER ENDORSEMENT OR WHILE THE PERSON'S COMMERCIAL DRIVER'S LICENSE IS SUSPENDED; INCLUDING NONCOMMERCIAL MOTOR VEHICLE OFFENSES IN THE LIST OF FELONY-DRUG OFFENSES FOR WHICH SUSPENSION OF A COMMERCIAL DRIVER'S LICENSE IS REQUIRED; AMENDING SECTIONS 61-1-134, 61-1-135, 61-5-102, 61-5-107, 61-5-110, 61-5-111, 61-5-112, 61-5-118, 61-5-212, 61-8-402, 61-8-802, 61-8-803, 61-8-804, 61-8-805, 61-8-806, AND 61-11-102, MCA; REPEALING SECTION 61-5-117, MCA; AND PROVIDING APPLICABILITY DATES" for the following reasons.

I have no concerns with the objectives of House Bill No. 185, or with its specific measures. I recommend, however, that Section 5 (2) be amended to read that the commercial driver's license means the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial *driver's* license.

I have enclosed my amendment to that effect. Please be advised that the Department of Justice concurs with this amendment. Further, please be advised that Representative Wilson, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 185

1. Page 4, line 8.
Strike: "motor vehicle"
Insert: "driver's"

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 490, introduced by Grimes, Esp, Mangan, McGee, Tropila, Wheat (by request of the Senate Judiciary Standing Committee), referred to Judiciary.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 31, introduced by Tash, referred to Judiciary.

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MOTIONS

Majority Leader Thomas moved the Senate recess until the hour of 11:00 a.m. to allow the staff to prepare agenda number 2. Motion carried.

Senate recessed at 10:46 a.m.
Senate resumed at 11:10 a.m.

Roll call. All members present except the Taxation Committee members.

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 588 - Senator Stapleton moved **HB 588**, second reading copy, be amended as follows:

1. Title, line 4.

Following: "'AN ACT"

Strike: "PROVIDING"

Following: "THAT"

Strike: "FOR"

Insert: "RESTRICTING"

Following: "INCREASES"

Insert: "IN RATES"

Following: "OR DECREASES"

Insert: "IN COVERAGE"

2. Page 2, line 4.

Following: "INCREASES"

Strike: "OR DECREASES"

Following: " ;"

Insert: "(1)"

3. Page 2, line 6 through line 7.

Following: "INCREASE" on line 6

Strike: "OR" on line 6 through the first "DECREASE" on line 7

4. Page 2, line 8.

Following: "UNLESS"

Insert: ":

(a)"

5. Page 2, line 8 through line 9.

Following: "PERIOD" on line 8

Strike: remainder of line 8 through "INSURED." on line 9

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Insert: "because of the addition or removal of persons or property that was included in the rate at last renewal;
(b) the risk was misrepresented by the insured; or
(c) the insured requests a policy change that increases the rate because of that specific request.
(2)"

Amendment **adopted** unanimously.

Members of the Taxation Committee present at this time.

HB 588 - Senator Cocchiarella moved **HB 588**, as amended, be concurred in. Motion carried Senators Cromley, Ellingson and Tester voting nay.

HB 107 - Senator Mangan moved **HB 107**, second reading copy, be amended as follows:

1. Page 5, line 1.

Following: "[

Insert: "section 4(8) of"

Amendment **not** adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 107 - Senator Story moved **HB 107** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Kitzenberg, Mangan.
Total 2

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HB 523 - Senator Bohlinger moved **HB 523** be concurred in. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Mahlum, McGee, McNutt, Pease, Perry, Sprague, Stapleton, Story, Taylor, Tester, Thomas, Mr. President.
Total 25

Nays: Black, Butcher, Cobb, Cocchiarella, Cooney, Elliott, Esp, Hansen, Harrington, Laible, Mangan, McCarthy, Nelson, O'Neil, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Toole, Tropila, Wheat, Zook.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 523 - Senator F. Thomas moved **HB 523** be **indefinitely postponed**. Motion carried as follows:

Yeas: Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 37

Nays: Anderson, Bales, Bohlinger, Cromley, Curtiss, DePratu, Esp, Glaser, Johnson, McGee, McNutt, Sprague, Taylor.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise, report and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:00 p.m. this day. Motion carried.

Senate recessed at 11:58 a.m.
Senate reconvened at 1:00 p.m.

Roll call. All members present. Quorum present.

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FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 491, introduced by Stonington (by request of the Senate Finance Standing Committee), referred to Finance and Claims.

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:25 p.m. for party caucuses. Motion carried.

Senate recessed at 1:08 p.m.

Senate reconvened at 1:33 p.m.

Roll call. All members present. Quorum present.

Senator Stonington excused at this time.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 90, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Stonington.
Total 1

HB 130, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

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Nays: Hansen.
Total 1

Absent or not voting: None.
Total 0

Excused: Stonington.
Total 1

HB 186 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Stonington.
Total 1

Senator Stonington present at this time.

HB 205 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 223, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum,

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Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Cobb.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 230 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 253, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 259, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Thomas, Toole, Tropila, Zook, Mr. President.
Total 43

Nays: Black, Elliott, McGee, Nelson, Taylor, Tester, Wheat.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 293 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Bales, Curtiss, Esp, McGee, O'Neil.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 304, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, Gebhardt, Glaser, Grimes, Johnson, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Squires, Stonington, Tash, Taylor, Thomas, Zook, Mr. President.
Total 29

Nays: Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Hansen, Harrington, Kitzenberg, Laible, McGee, Nelson, Pease, Ryan, Schmidt, Stapleton, Story, Tester, Toole, Tropila, Wheat.
Total 21

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 384 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 385, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 396, as amended by the Senate, concurred in as follows:

Yeas: Bales, Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat.

Total 33

Nays: Anderson, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, McGee, O'Neil, Story, Taylor, Zook, Mr. President.

Total 17

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

HB 445 concurred in as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 44

Nays: Anderson, Cobb, Gebhardt, McGee, Taylor, Mr. President.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 456 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

Nays: Bales, Esp, Gebhardt, McGee, O'Neil, Stapleton.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 474 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 482 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: McGee, O'Neil.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 484, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 512, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

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Total 47

Nays: Johnson, Mangan, Zook.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 517, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: McGee, Stapleton.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 524 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Butcher, McGee, Thomas.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 525, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible,

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Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 536, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.
Total 48

Nays: Mangan, Wheat.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 537, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Ellingson, Stonington, Toole.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 545, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Cromley, Ellingson, Ryan, Schmidt, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 555 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Cromley, McGee, Shea, Stapleton, Thomas.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 563, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 29

Nays: Bohlinger, Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 21

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 580 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 637 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Butcher, Cromley, Esp.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 12 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 38

Nays: Cooney, Ellingson, Esp, Hansen, Harrington, Nelson, Ryan, Schmidt, Stonington, Tester, Toole, Wheat.

Total 12

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

MOTIONS

HB 385 - Senator DePratu moved he be allowed to change his vote on **HB 385**, third reading this day, from nay to yea. Motion carried.

HB 293 - Senator Butcher moved he be allowed to change his vote on **HB 293**, third reading this day, from nay to yea. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 3

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. President Keenan retained the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Tester excused at this time.

HB 640 - Senator McGee moved **HB 640** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Squires, Stapleton, Taylor, Thomas, Mr. President.
Total 28

Nays: Bohlinger, Cooney, Cromley, Ellingson, Gebhardt, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Ryan, Schmidt, Shea, Stonington, Story, Tash, Toole, Tropila, Wheat, Zook.
Total 21

Absent or not voting: None.
Total 0

Excused: Tester.
Total 1

Senator Johnson rose on a point of personal privilege to state that Senator McGee was in error regarding the people who live in the Billings "doughnut area". Senator McGee stated they do not have an appeal right to a governing body they've elected. That is not true. The "doughnut area's" appeal process is to the Planning Board first, then the County Commission, whom they do elect.

HB 609 - Senator Pease moved **HB 609** be concurred in. Motion carried unanimously.

HB 195 - Senator Grimes moved **HB 195** be concurred in. Motion carried unanimously.

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HB 213 - Senator Grimes moved **HB 213** be concurred in. Motion carried unanimously.

HB 468 - Senator Cooney moved **HB 468**, second reading copy, be amended as follows:

1. Title, page 1, lines 8 through 9.

Strike: "PROHIBITING" on line 8 through "MATERIALS;" on line 9

2. Page 1, line 14.

Strike: "~~prohibition~~"

3. Page 1, line 15.

Strike: "Whenever" through "financing"

Insert: "All"

4. Page 1, line 18.

Following: "advertising"

Strike: ", the communication"

Strike: "state"

Insert: "include the attribution "paid for by" followed by"

5. Page 1, line 19.

Following: "communication"

Strike: ", including in"

Insert: ". When a candidate or a candidate's campaign finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's campaign. In"

Following: ";

Insert: ", the attribution must be"

Following: "the name"

Insert: "of the committee, the name of the committee treasurer,"

6. Page 1, line 20.

Following: "and"

Insert: "the"

Following: "of the"

Insert: "committee or the committee"

Following: "treasurer."

Insert: "(2)"

Renumber: subsequent subsections

7. Page 1, line 23.

Following: "about"

Strike: "a"

Insert: "another"

8. Page 1, line 24.

Following: "include"

Insert: ": (i)"

Following: "BASED"

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Insert: "; (ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue, if closely related in time;"

9. Page 1, line 25.

Following: "AND"

Insert: "(iii)"

Strike: "(2)(b)"

Insert: "(3)(b)"

10. Page 1, line 26.

Following: "about the"

Insert: "other"

11. Page 1, line 27.

Strike: "(2)(a)"

Insert: "(3)(a)"

12. Page 2, line 2.

Strike: subsection 3 in its entirety

Renumber: subsequent subsections

13. Page 2, line 4.

Strike: "and (2)"

Insert: "through (3)"

14. Page 2, line 7.

Strike: "and (2)"

Insert: "through (3)"

15. Page 2, line 12.

Strike: "within 2 weeks"

Amendment **adopted** unanimously.

HB 468 - Senator Cooney moved **HB 468**, as amended, be concurred in. Motion carried with Senator O'Neil voting nay.

Senator Tester present at this time.

HB 226 - Senator Grimes moved **HB 226** be concurred in. Motion **failed** as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Grimes, Hansen, Kitzenberg, Mahlum, Mangan, Nelson, Roush, Schmidt, Squires, Stonington, Taylor, Tester, Thomas, Toole, Wheat.

Total 22

Nays: Bales, Barkus, Black, Cromley, DePratu, Elliott, Esp, Gebhardt, Glaser, Harrington, Johnson, Laible, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Ryan, Shea, Sprague, Stapleton, Story, Tash, Tropila, Zook, Mr. President.

Total 27

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Absent or not voting: None.
Total 0

Excused: Butcher.
Total 1

HB 226 - Senator Stapleton moved **HB 226** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Black, Cromley, DePratu, Elliott, Gebhardt, Glaser, Harrington, Johnson, Laible, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Tester, Tropila, Wheat, Zook, Mr. President.
Total 29

Nays: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Esp, Grimes, Hansen, Kitzenberg, Mahlum, Mangan, Nelson, Roush, Schmidt, Squires, Stonington, Thomas, Toole.
Total 20

Absent or not voting: None.
Total 0

Excused: Butcher.
Total 1

Senator McGee assumed the chair.

HB 247 - Senator Mangan moved **HB 247** be concurred in. Motion carried unanimously.

Senator Cobb excused at this time.

HB 256 - Senator Cromley moved **HB 256** be concurred in. Motion carried unanimously.

Senator Cobb present at this time.

HB 270 - Senator DePratu moved **HB 270** be concurred in. Motion carried unanimously.

HB 577 - Senator Anderson moved **HB 577** be concurred in. Motion carried with Senator Cocchiarella voting nay.

HB 419 - Senator Elliott moved **HB 419** be concurred in. Motion carried unanimously.

HB 494 - Senator DePratu moved **HB 494** be concurred in. Motion carried unanimously.

HB 501 - Senator Bohlinger moved **HB 501** be concurred in. Motion carried unanimously.

HB 538 - Senator Anderson moved **HB 538** be concurred in. After discussion, Senator Butcher made a **substitute motion** that **HB 538**, second reading copy, be amended as follows:

1. Title, page 2, line 27.
Strike: "AN IMMEDIATE"
Insert: "A DELAYED"

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Amendment **adopted** unanimously.

HB 538 - Senator Anderson moved **HB 538**, as amended, be concurred in. Motion carried unanimously.

HB 719 - Senator Gebhardt moved **HB 719**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Strike: "LEGISLATIVE FISCAL ANALYST"

Insert: "GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING"

2. Title, page 1, line 8.

Strike: "LEGISLATIVE FISCAL ANALYST"

Insert: "GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING"

3. Title, page 1, line 17.

Strike: "13-27-104,"

4. Page 1, line 23 through line 26.

Strike: section 1 in its entirety

Renumber: subsequent sections

5. Page 3, line 12.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

6. Page 3, line 28.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

7. Page 4, line 21.

Following: "counties"

Insert: "of the state"

8. Page 6, line 2.

Following: "on"

Insert: "on"

9. Page 6, line 24.

Following: "one-half of the counties"

Insert: "of the state"

10. Page 9, line 1.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

11. Page 9, line 7.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

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12. Page 9, line 9.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

13. Page 10, line 3.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

14. Page 10, line 27.

Strike: "**legislative fiscal analyst**"

Insert: "governor's office of budget and program planning"

15. Page 10, line 29.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

16. Page 11, line 21.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

17. Page 11, line 29.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

18. Page 12, line 7.

Strike: "legislative fiscal analyst"

Insert: "governor's office of budget and program planning"

19. Page 15, line 5.

Strike: "16"

Insert: "15"

20. Page 15, line 6.

Strike: "16"

Insert: "15"

Amendment **adopted** unanimously..

HB 719 - Senator Gebhardt moved **HB 719**, second reading copy, be further amended as follows:

1. Page 15.

Following: line 6

Insert: "NEW SECTION. Section 18. Coordination instruction. If both House Bill No. 203 and [this act] are passed and approved and both bills amend 13-27-302, then [section 9] of House Bill No. 203 is void and [section 7 of this act], amending 13-27-302 must read as follows:

"Section 7. Section 13-27-302, MCA, is amended to read:

"13-27-302. Certification of signatures. ~~An (1) A signed, notarized, and dated~~ affidavit, ~~in substantially the following form,~~ must be attached to each sheet or section submitted to the county official and must contain the following information printed within the text of the affidavit:

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I, (name of person who circulated this petition), swear that I circulated or assisted in circulating the petition to which this affidavit is attached, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition.

.....

(Signature of petition circulator)

.....

(Address of petition circulator)

Subscribed and sworn to before me this ... day of, 20...

.....

Seal — (Person authorized to take oaths)

.....

(Title or notarial information)

(a) the name, street or other residence address, city or town, and county where the signature gatherer resides and the date and place where the affidavit was signed;

(b) a statement that the signature gatherer has read and understands the Montana law governing the collection of signatures on a petition;

(c) a statement that the signature gatherer solicited the signatures on the petition to which the affidavit is attached and believes that:

(i) the signatures on the petition are genuine in that they are of the individuals for whom they purport to be;

(ii) the signatures are of Montana electors who are registered at the addresses following their signatures;

(iii) the persons signing the petition knew the content of the petition before they signed;

(d) a statement as to whether the signature gatherer was paid; and

(e) the date on which the first signature was gathered.

(2) The county official or the secretary of state may not accept for filing a petition or a part of a petition that does not have attached to it the affidavit required by subsection (1).""

Renumber: subsequent sections

Amendment **adopted** unanimously.

HB 719 - Senator Gebhardt moved **HB 719**, as amended, be concurred in. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Curtiss, Esp, Gebhardt, Glaser, Grimes, Laible, Mangan, McGee, McNutt, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 22

Nays: Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Johnson, Kitzenberg, Mahlum, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 27

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

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HB 719 - Senator Cooney moved **HB 719** be **indefinitely postponed**. Motion **passed** as follows:

Yeas: Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Johnson, Kitzenberg, Mahlum, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 27

Nays: Anderson, Bales, Barkus, Black, Curtiss, Esp, Gebhardt, Glaser, Grimes, Laible, Mangan, McGee, McNutt, Perry, Shea, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

4/4/2003

SB 77, introduced by Johnson
SB 168, introduced by Stonington
SB 191, introduced by O'Neil
SB 217, introduced by Mahlum
SB 283, introduced by Wheat
SB 292, introduced by Cocchiarella
SB 306, introduced by D. Ryan
SB 307, introduced by D. Ryan
SB 315, introduced by Schmidt
SB 316, introduced by Grimes
SB 325, introduced by McGee
SB 329, introduced by Mangan
SB 331, introduced by Squires
SB 334, introduced by Sprague
SB 341, introduced by F. Thomas
SB 380, introduced by Bales
SB 409, introduced by Stapleton
SB 449, introduced by Cooney

Senate joint resolution concurred in and returned to the Senate:

4/4/2003

SJR 11, introduced by Schmidt

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Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/4/2003

SB 35, introduced by Grimes
SB 95, introduced by Stonington
SB 111, introduced by Nelson
SB 194, introduced by Tash
SB 232, introduced by Mahlum
SB 244, introduced by Story
SB 247, introduced by Cobb
SB 263, introduced by Grimes
SB 270, introduced by Harrington
SB 275, introduced by Laible
SB 282, introduced by Squires
SB 288, introduced by Mangan
SB 321, introduced by Laible
SB 326, introduced by McGee
SB 344, introduced by Laible
SB 348, introduced by Keenan
SB 349, introduced by Anderson
SB 363, introduced by McNutt
SB 366, introduced by Grimes
SB 375, introduced by Elliott
SB 387, introduced by Cobb
SB 400, introduced by Toole
SB 434, introduced by Tropila

Senate joint resolution concurred in as amended and returned to the Senate for concurrence in House amendments:

4/4/2003

SJR 18, introduced by Harrington

Senate bills not concurred in and returned to the Senate:

4/4/2003

SB 295, introduced by Butcher
SB 274, introduced by McGee, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

4/4/2003

Yeas - 53

Nays - 47

Representative Bob Keenan
President of the Senate
State Capitol
Helena, MT 59620

Dear President Keenan:

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I am directed by the House of Representatives that the House on motion duly carried on April 4, 2003, requests the return of **Senate Bill 363** for the purpose of reconsideration of action taken on this date.

Sincerely,

Marilyn Miller
Chief Clerk

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans and thanked them for their work through the week.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 4

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 540 - Senator Cooney moved **HB 540** be concurred in. Motion carried as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cooney, Cromley, DePratu, Ellingson, Hansen, Johnson, Kitzenberg, Mahlum, McCarthy, Nelson, O'Neil, Pease, Roush, Schmidt, Shea, Squires, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 27

Nays: Bales, Barkus, Cobb, Cocchiarella, Curtiss, Esp, Gebhardt, Glaser, Laible, McGee, McNutt, Perry, Sprague, Stapleton, Story, Tash, Zook.

Total 17

Absent or not voting: None.

Total 0

Excused: Elliott, Grimes, Harrington, Mangan, Ryan, Stonington.

Total 6

HB 710 - Senator Thomas moved consideration of **HB 710** be passed for the day. Motion carried.

HB 695 - Senator Thomas moved to add **HB 695** to the current agenda. Motion carried.

HB 241 - Senator Thomas moved to add **HB 241** to the current agenda. Motion carried.

HB 546 - Senator Cromley moved **HB 546** be concurred in. Motion carried unanimously.

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HB 553 - Senator Tropila moved **HB 553** be concurred in. Motion carried unanimously.

HB 556 - Senator Cooney moved **HB 556** be concurred in. Motion carried unanimously.

HB 579 - Senator Cromley moved **HB 579** be concurred in. Motion carried with Senator Gebhardt voting nay.

HB 302 - Senator Glaser moved **HB 302**, second reading copy, be amended as follows:

1. Page 3, line 29 through line 30.

Strike: subsection (10) in its entirety

Renumber: subsequent subsections

Amendment **adopted** unanimously.

HB 302 - Senator Glaser moved **HB 302**, second reading copy, be further amended as follows:

1. Page 10, line 29 through line 30.

Strike: "THE" on line 29 through "(2)(G)" on line 30

Insert: "If a school district requests a local insurance agent to provide administrative, enrollment, or member education services, the board shall contract with the local agent and shall apply a premium surcharge only to the district that requests the services"

Amendment **adopted** unanimously.

HB 302 - Senator Glaser moved **HB 302**, second reading copy, be further amended as follows:

1. Page 5, line 14.

Strike: "April 1"

Insert: "March 15"

2. Page 5, line 21.

Strike: "April"

Insert: "March"

3. Page 5, line 22.

Strike: "April"

Insert: "March"

4. Page 11, line 18.

Strike: "ANNUAL audit"

Insert: "Audits"

5. Page 11, line 19.

Following: "required."

Insert: "(1)"

6. Page 11, line 20.

Following: "audited"

Insert: ":(a)"

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Following: "YEAR"

Insert: "for statutory compliance; and

(b) every 2 years for financial claims, claims payment, and reserves"

Following: "."

Insert: "(2)"

Strike: "audit"

Insert: "audits"

Strike: "FISCAL YEAR"

Insert: "period"

Amendment **adopted** unanimously.

HB 302 - Senator Glaser moved **HB 302**, second reading copy, be further amended as follows:

1. Page 11, line 24.

Strike: "on"

Insert: "prior to"

2. Page 11, line 25 through line 26.

Strike: "for" on line 25 through "2005," on line 26

Amendment **adopted** unanimously.

HB 302 - Senator Story moved **HB 302**, second reading copy, be further amended as follows:

1. Title, page 1, line 17.

Following: "PLAN;"

Insert: "PROVIDING THAT A DISTRICT THAT PAYS HEALTH BENEFIT CONTRIBUTIONS FOR ALL ELIGIBLE EMPLOYEES THROUGH AN ESTABLISHED SELF-INSURANCE PLAN IS NOT REQUIRED TO PARTICIPATE IN THE STATEWIDE PUBLIC SCHOOL RISK POOL AND HEALTH BENEFIT PLANS;"

2. Page 5, line 10.

Following: "contributions"

Insert: "-- exception to participation for self-insured districts"

3. Page 5, line 27.

Following: "(4)"

Strike: "By"

Insert: "Except as provided in subsection (17), by"

4. Page 7, line 24.

Following: line 23

Insert: "(17) A school district with an established self-insurance plan that pays health benefit contributions for all eligible employees, regardless of whether the employee or employees participate in the district's health plan, is not required to participate in the statewide public school risk pool and health benefit plans. Proof of a district's payment of contributions and the district's participation requirement must be provided to the board, along with a notice of intent not to participate in the statewide public school risk pool and health benefit plans, on or before May 1, 2004. "

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Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, O'Neil, Perry, Sprague, Squires, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.
Total 30

Nays: Cobb, Cooney, Cromley, Hansen, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Stapleton, Stonington, Tester, Toole, Tropila.
Total 19

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 302 - Senator Glaser moved **HB 302**, second reading copy, be further amended as follows:

1. Page 5, line 14.

Following: "(2)"

Insert: "(a)"

Strike: "By"

Insert: "Except as provided in subsection (2)(b), by"

2. Page 5, line 15.

Strike: "(a)"

Insert: "(i)"

3. Page 5, line 19.

Strike: "(b)"

Insert: "(ii)"

4. Page 5.

Following: line 23

Insert: "(b) If the board determines that it is more efficient and offers less risk, the board may contract with a private market licensed in this state to provide a health benefit plan for K-12 public school districts."

5. Page 5, line 24.

Strike: "By"

Insert: "If the board adopts its own health benefit plans, by"

6. Page 5, line 27.

Strike: "By"

Insert: "If the board adopts its own health benefit plans, by"

7. Page 6, line 9.

Following: "EMPLOYEE"

Insert: "or enrolled under a private market health benefit plan"

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8. Page 6, line 25.

Following: the second "plan"

Insert: "or a private market health benefit plan"

Amendment **adopted** unanimously.

HB 302 - Senator Ryan moved **HB 302**, as amended, do **not** pass. After discussion, Senator Ryan withdrew the do not pass motion and moved consideration of **HB 302** be passed for the day. After further discussion, Senator Glaser made a **substitute motion** that **HB 302**, as amended, be concurred in. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 24

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 25

Absent or not voting: None.
Total 0

Excused: Harrington.
Total 1

HB 302 - Senator Thomas moved further consideration of **HB 302** be placed at the bottom of the board. Motion carried.

HB 667 - Senator Hansen moved **HB 667** be concurred in. Motion carried unanimously.

Senator Kitzenberg excused at this time.

HB 676 - Senator Story moved **HB 676** be concurred in. Motion carried unanimously.

HB 677 - Senator Story moved **HB 677** be concurred in. Motion carried unanimously.

HB 678 - Senator Story moved **HB 678** be concurred in. Motion carried with Senator Cobb voting nay.

HB 695 - Senator Grimes moved **HB 695** be concurred in. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Grimes, Laible, Mahlum, McGee, McNutt, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Mr. President.
Total 23

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Glaser, Hansen, Johnson, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat, Zook.
Total 25

Absent or not voting: None.

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Total 0

Excused: Harrington, Kitzenberg.

Total 2

HB 695 - Senator F. Thomas moved **HB 695** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Hansen, Johnson, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat, Zook, Mr. President.

Total 29

Nays: Anderson, Barkus, Black, Bohlinger, Butcher, Cromley, Curtiss, Esp, Gebhardt, Glaser, Grimes, Laible, McGee, Perry, Sprague, Stapleton, Tash, Taylor, Thomas.

Total 19

Absent or not voting: None.

Total 0

Excused: Harrington, Kitzenberg.

Total 2

HJR 29 - Senator Schmidt moved **HJR 29** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Hansen, Johnson, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 41

Nays: Bales, Butcher, Esp, McGee, Perry, Stapleton.

Total 6

Absent or not voting: None.

Total 0

Excused: Elliott, Harrington, Kitzenberg.

Total 3

Senator Elliott excused at this time.

HJR 31 - Senator Stonington moved **HJR 31** be concurred in. Motion carried with Senators Butcher, Esp and McGee voting nay.

HB 241 - Senator Mahlum moved **HB 241** be concurred in. Motion **failed** as follows:

Yeas: Butcher, Cobb, Cooney, Ellingson, Grimes, Laible, Mahlum, Mangan, McGee, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.

Total 20

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Nays: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Hansen, Johnson, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Stonington, Story, Tester, Toole, Tropila, Wheat.
Total 27

Absent or not voting: None.
Total 0

Excused: Elliott, Harrington, Kitzenberg.
Total 3

HB 241 - Senator F. Thomas moved **HB 241** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Hansen, Johnson, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Stapleton, Stonington, Story, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 35

Nays: Cobb, Glaser, Grimes, Laible, Mahlum, Perry, Schmidt, Sprague, Squires, Tash, Taylor, Thomas.
Total 12

Absent or not voting: None.
Total 0

Excused: Elliott, Harrington, Kitzenberg.
Total 3

HB 302 - Senator D. Ryan moved **HB 302** be **indefinitely postponed**. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Gebhardt, Hansen, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Stapleton, Stonington, Tester, Thomas, Toole, Wheat.
Total 25

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Glaser, Grimes, Johnson, Laible, McGee, O'Neil, Sprague, Squires, Story, Tash, Taylor, Tropila, Zook, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: Elliott, Harrington, Kitzenberg.
Total 3

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

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MOTIONS

SR 6- Majority Leader Thomas moved to suspend Senate rule 50-170 to allow SR 6 to be placed on third reading this day. Motion carried unanimously.

HB 293 - Senator Black moved he be allowed to change his vote on **HB 293**, third reading this day, from nay to aye. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SR 6 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Harrington, Kitzenberg.
Total 3

Senator McGee rose on a point of personal privilege to ask if he could get a copy of **SR 6** to send to his nephew, who is also serving with the service in Iraq. Senator Wheat informed Senator McGee that he had made copies of the resolution for anyone that might want to send them to friends or relatives in the service.

SPECIAL ORDERS OF THE DAY

Senator Wheat presented the original of **SR 6** to Senator Gebhardt and requested that he send it to his son , who is on assignment with the military in Iraq, to show support of the Montana Legislature and the citizens of Montana.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, April 5, 2003. Motion carried.

Senate adjourned at 6:55 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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58TH LEGISLATURE
SEVENTY-THIRD LEGISLATIVE DAY**

Helena, Montana
April 5, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll call. All members present except Senator Sprague, excused. Quorum present.

The presiding officer has authenticated the daily journals for the seventy-first and seventy-second days.

REPORTS OF STANDING COMMITTEES

TAXATION (DePratu, Chairman):
HB 452, be amended as follows:

4/5/2003

1. Title, page 1, line 7.

Strike: the second "AND"

Insert: ", "

2. Title, page 1, line 8.

Following: "DATE"

Insert: ", AND A TERMINATION DATE"

3. Page 1, line 20.

Strike: "may"

Insert: "shall"

Strike: "MONEY"

Insert: "Thirty percent of the money"

4. Page 1, line 21.

Strike: "WAS CLAIMED"

Insert: "will be claimed"

Strike: "REIMBURSED"

Insert: "transferred"

Following: "FUND FOR"

Insert: "reimbursement of the tax credit. At the end of each calendar year, the department shall determine the amount of tax credits claimed and any funds transferred to the general fund in excess of"

5. Page 1, line 22.

Following: "YEAR"

Insert: "must be transferred back to the account"

6. Page 2, line 17.

Insert: "NEW SECTION. Section 6. Termination. [This act] terminates January 1, 2006."

And, as amended, be concurred in. Report adopted.

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HB 539, be amended as follows:

1. Page 9, line 7.

Strike: "an account"

Insert: "one or more accounts"

2. Page 9, line 8.

Following: "by the"

Insert: "total"

3. Page 9, line 9.

Strike: "contribution"

Insert: "contributions"

And, as amended, be concurred in. Report adopted.

HB 713, be amended as follows:

1. Title, page 1, line 8.

Following: "PROGRAM;"

Insert: "PROVIDING AN ADDITIONAL COLLECTION PENALTY FOR TAX LIABILITIES NOT PAID UNDER THE TAX AMNESTY PROGRAM;"

2. Page 3.

Following: line 12

Insert: "(10) A taxpayer described in subsection (1)(a) who fails to pay a tax liability under the income tax amnesty program provided for in this section must be assessed an additional 25% collection penalty on the amount of any unpaid tax liability incurred before January 1, 2003."

Renumber: subsequent subsections

And, as amended, be concurred in. Report adopted.

HB 721, be amended as follows:

1. Page 3, line 8.

Following: "~~(1)~~"

Insert: "(1)"

2. Page 3, line 12.

Strike: "~~(1)~~"

Insert: "(a)"

Renumber: subsequent subsections

3. Page 3, line 16.

Following: "~~(a)~~"

Insert: "(a)"

4. Page 4, line 15.

Insert: "(2) The department shall report biennially to the revenue and transportation interim committee with an update

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of countries that may be considered a tax haven under subsection (1)(f)."

5. Page 4, line 18.

Strike: "(1)" through "(5)"

Insert: "(1)(a) through (1)(e)"

6. Page 4, line 22.

Strike: "(6)"

Insert: "(1)(f)"

7. Page 5, line 2.

Strike: "(6)"

Insert: "(1)(f)"

8. Page 5, line 11.

Strike: "(6)"

Insert: "(1)(f)"

9. Page 6, line 14.

Strike: "(6)"

Insert: "(1)(f)"

And, as amended, be concurred in. Report adopted.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 6 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 8 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 105, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Esp, Story.

Total 2

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 107, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Ellingson, Kitzenberg, Mangan, Squires.

Total 4

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

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HB 141, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 195 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 203, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Curtiss, Mangan.
Total 2

Absent or not voting: None.
Total 0

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Excused: Sprague.
Total 1

HB 213, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Bales, Esp, McGee, Stapleton.
Total 4

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 247, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Butcher, Curtiss.
Total 2

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 256, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: Sprague.

Total 1

HB 266, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 270, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 358, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Glaser, Grimes, Hansen, Harrington, Johnson, Mangan, McCarthy, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook.

Total 35

Nays: Bales, Cocchiarella, Ellingson, Elliott, Esp, Gebhardt, Kitzenberg, Laible, Mahlum, McNutt, Nelson, Squires, Tester, Mr. President.

Total 14

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Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 404, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Taylor, Tester, Thomas, Tropila, Zook.
Total 35

Nays: Cooney, Cromley, Ellingson, Elliott, Esp, Laible, Nelson, O'Neil, Perry, Stapleton, Story, Toole, Wheat, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 410, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 419 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.
Total 48

Nays: Wheat.

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Total 1

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 424, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 431 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 451, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 41

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Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, Toole.
Total 8

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 468, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Bales, Curtiss, Esp, McGee, O'Neil.
Total 5

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 494 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 501 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 509, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Cobb, Stapleton.

Total 2

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 538, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Roush.

Total 1

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 540, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Squires, Stonington,

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Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 34

Nays: Bales, Barkus, Cobb, Cocchiarella, Curtiss, Esp, Gebhardt, Johnson, Kitzenberg, Laible, McGee, Perry, Shea, Stapleton, Story.
Total 15

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 546 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 553, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Gebhardt, Story.
Total 2

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

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HB 556, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 577, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cocchiarella, Johnson, Mangan.
Total 3

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 579 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.
Total 44

Nays: Gebhardt, Mangan, McNutt, Schmidt, Wheat.
Total 5

Absent or not voting: None.
Total 0

Excused: Sprague.

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Total 1

HB 588, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Cromley, Ellingson, Tester.

Total 3

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 591 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Curtiss.

Total 1

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 609, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Sprague.
Total 1

HB 640, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Squires, Stapleton, Taylor, Thomas, Zook, Mr. President.
Total 29

Nays: Bohlinger, Cooney, Cromley, Ellingson, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat.
Total 21

Paired: Sprague, Aye; Bohlinger, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 641, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 47

Nays: Cromley, Tropila.
Total 2

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 648, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: DePratu.
Total 1

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Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 667, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 669, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Toole.
Total 1

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 676, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 677, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Cobb, Stapleton.

Total 2

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 678 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 680, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

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Nays: Bales, Black, Cobb.
Total 3

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 689, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 698, as amended by the Senate, concurred in as follows:

Yeas: Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat.
Total 42

Nays: Anderson, Bales, McGee, Stapleton, Taylor, Zook, Mr. President.
Total 7

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 720, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 47

Nays: Gebhardt, Kitzenberg.

Total 2

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 733, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 734, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 43

Nays: Bales, Barkus, Grimes, Johnson, Zook, Mr. President.

Total 6

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HJR 26 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy,

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McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 43

Nays: Butcher, Esp, O'Neil, Stapleton, Zook, Mr. President.

Total 6

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HJR 29, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 43

Nays: Bales, Butcher, Esp, McGee, Stapleton, Zook.

Total 6

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HJR 31, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat.

Total 39

Nays: Bales, Barkus, Black, Butcher, Esp, McGee, Stapleton, Thomas, Zook, Mr. President.

Total 10

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

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HJR 32, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Cromley.
Total 1

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

MOTIONS

HB 358 - Senator Nelson moved she be allowed to change her vote on **HB 358**, third reading this day, from yea to nay.
Motion carried.

HB 358 - Senator Gebhardt moved he be allowed to change his vote on **HB 358**, third reading this day, from yea to nay.
Motion carried.

HB 107 - Senator Esp moved he be allowed to change his vote on **HB 107**, third reading this day, from nay to yea.
Motion carried.

HB 640 - Senator Taylor moved he be allowed to change his vote on **HB 640**, third reading this day, from nay to yea.
Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, April 7, 2003. Motion carried.

Senate adjourned at 8:38 a.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
April 7, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Mahlum, excused. Quorum present.

The presiding officer has authenticated the daily journal for the seventy-third legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 489, SJR 31.**

Correctly engrossed: **HB 452, HB 539, HB 713, HB 721.**

Correctly engrossed: **HB 241, HB 404, HB 468, HB 538, HB 558, HB 588, HB 641, HB 689, HB 695.**

Correctly enrolled: **SB 24, SB 135, SB 150, SB 163, SB 166, SB 197, SB 220, SB 241, SB 249, SB 254, SB 262, SB 445, SB 460, SJR 9, SJR 14.**

Examined by the sponsor and found to be correct: **SB 22, SB 66, SB 97, SB 118, SB 133, SB 145, SB 149, SB 162, SB 213, SB 413.**

Signed by the President at 2:30 p.m., April 4, 2003: **SB 22, SB 66, SB 97, SB 118, SB 133, SB 145, SB 149, SB 162, SB 213, SB 413.**

Signed by the Secretary of the Senate at 4:30 p.m., April 4, 2003: **SB 22, SB 66, SB 97, SB 118, SB 133, SB 145, SB 149, SB 162, SB 213, SB 413.**

Signed by the Speaker at 8:45 a.m., April 7, 2003: **SB 22, SB 66, SB 97, SB 118, SB 133, SB 145, SB 149, SB 162, SB 213, SB 413.**

Delivered to the Governor for approval at 10:00 a.m., April 7, 2003: **SB 22, SB 66, SB 97, SB 118, SB 133, SB 145, SB 149, SB 162, SB 213, SB 413.**

FINANCE AND CLAIMS (Zook, Chairman):

4/7/2003

HB 2, be amended as follows:

1. Page BP-1, line 19.

Following: "."

Insert: "The designation of "Restricted" is subject to the provisions of [section 7]."

2. Page BP-2.

Following: line 3

"NEW SECTION. Section 7. Approved original operating budget. In accordance with the provisions of 17-7-138, the approved original operating budget for each fiscal year of the 2005 biennium may include an amount not more than a prorated share by fund type of any across-the-board reductions or any undesignated reductions among all programs, as defined in [section 5], and among all appropriation items, as defined in [section 4], for the entire agency. This exception to legislative restrictions on appropriation items contained in [this act] is authorized only for preparation and approval of the original operating budget, which is due from all agencies by August 1 of each fiscal year, excluding the university system units.

NEW SECTION. Section 8. Contingent voidness. Because item 4b on page A-5 appropriates coal severance tax permanent fund principal, Article IX, section 5, of the Montana constitution requires a three-fourths vote of the members of each house of the legislature for approval. If [this act] is not approved by a three-fourths vote of the members of each house of the legislature, then item 4b is void."

Renumber: subsequent sections

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3. Page A-1, line 4.

Strike: "3,988,490 4,270,415" [general fund FY04 and FY05]

Insert: "4,068,920 4,348,882" [general fund FY04 and FY05]

4. Page A-1.

Following: line 4

Insert: "a. Legislative Startup Costs (Biennial)
200,000" [general fund FY04]

5. Page A-1.

Strike: line 14 through line 16 in their entirety

6. Page A-2, line 4.

Strike: "3,020,545 3,040,540" [general fund FY04 and FY05]

Insert: "3,278,571 3,297,863" [general fund FY04 and FY05]

7. Page A-2, line 13.

Strike: "26,179,042 27,050,501" [general fund FY04 and FY05]

Insert: "6,166,116 6,151,807" [general fund FY04 and FY05]

8. Page A-2.

Following: line 13

Insert: "a. County-Paid Sick and Vacation Leave (Restricted) 307,250 307,250 [state special revenue FY04 and FY05]

b. District Court Assumption (Restricted/Biennial) 37,311,620" [general fund FY04]

9. Page A-2.

Following: line 24

Insert: "Item 1 includes \$92,978 of general fund money in fiscal year 2004 and \$92,812 of general fund money in fiscal year 2005 to provide funding for administrative support to the supreme court. If legislation revising certain district court expenses is not passed and approved, then item 1 is reduced by \$92,978 of general fund money in fiscal year 2004 and by \$92,812 of general fund money in fiscal year 2005."

10. Page A-3.

Strike: line 7 through line 8 in their entirety

11. Page A-3.

Following: line 8

Insert: "Item 4a includes \$307,250 of state special revenue in fiscal year 2004 and \$307,250 of state special revenue in fiscal year 2005 to be used by the judiciary for payment of the state's share of accumulated vacation and sick leave for county employees who became state employees on July 1, 2002, under state district court assumption. If legislation is not passed and approved to establish this state special revenue account for county payments to the state for accumulated sick and annual leave, then item 4a is reduced by \$307,250 in state special revenue in fiscal year 2004 and by \$307,250 in state special revenue in fiscal year 2005."

12. Page A-3, line 17.

Strike: "1,315,975 1,308,634" [general fund FY04 and FY05]

Insert: "1,356,891 1,348,915" [general fund FY04 and FY05]

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13. Page A-4.

Following: line 6

Insert: "b. 17-7-140 Trigger -- Coal Tax Permanent Fund (Biennial)
25,000,000" [other funds FY04]

14. Page A-4.

Strike: line 20 through line 22 in their entirety

15. Page A-4.

Following: line 22

Insert: "Item 1 includes an unspecified reduction in general fund money of \$250,000 in fiscal year 2004 and \$250,000 in fiscal year 2005. The office may reallocate this reduction in funding among programs when developing 2005 biennium operating plans."

16. Page A-4, line 25.

Strike: line 25 in its entirety

17. Page A-5, line 1 through line 2.

Strike: line 1 through line 2 in their entirety

18. Page A-5.

Following: line 2

Insert: "Item 4b is appropriated from the coal severance tax permanent fund. This appropriation is subject to the provisions of [section 8].

Item 4b is contingent upon certification by the governor that the requirements of 17-7-140 have been met. The office of budget and program planning may reallocate the additional funds among agencies' and programs' general fund budgets."

19. Page A-5, line 10.

Strike: "314,426 314,350" [general fund FY04 and FY05]

Insert: "317,655 317,525" [general fund FY04 and FY05]

20. Page A-5.

Strike: line 16 through line 17 in their entirety

Insert: "The commissioner of political practices is encouraged to use the department of justice, agency legal services (ALS), for activities needing legal and investigative assistance. The commissioner of political practices shall provide a report of legal expenditure activity in fiscal year 2004 and through December 31, 2004, in fiscal year 2005 by contracted services and ALS services to the general government and transportation appropriation subcommittee during the 2005 legislative session."

21. Page A-6, line 22.

Strike: "286,426,815 340,119,185"

Insert: "287,854,080 341,603,530"

[federal special revenue in FY04 and FY05]

22. Page A-6.

Strike: line 25 in its entirety

23. Page A-7.

Strike: line 1 in its entirety

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24. Page A-7, following line 1.

Insert: "b. Federal Earmark Projects (Biennial/OTO)

548,276 11,000,000" [state special revenue and federal special revenue in FY04]

25. Page A-8.

Strike: line 2 through line 5 in their entirety

Insert: "The department may adjust appropriations in the general operations, construction, maintenance, and transportation planning programs between state special revenue funds and federal special revenue funds if the total state special revenue authority for these programs is not increased by more than 10% of the total appropriations established by the legislature for each program. All transfers between state special revenue funds and federal special revenue funds must be fully explained, justified, and reported in accordance with the requirements of 17-7-138 or 17-7-139, as applicable."

26. Page A-8.

Strike: line 10 through line 16 in their entirety

27. Page A-8, line 19.

Strike: "1,812,503 1,818,150" [general fund FY04 and FY05]

Insert: "2,113,151 2,117,096" [general fund FY04 and FY05]

28. Page A-9.

Strike: line 10 through line 12 in their entirety

29. Page A-10, line 2.

Strike: "1,190,512 1,180,369" [general fund FY04 and FY05]

Insert: "1,225,638 1,215,791" [general fund FY04 and FY05]

30. Page A-11.

Following: line 12

Insert: "There is appropriated from the general fund to the department for payments to the Montana highway patrol pension fund the amount required for this transfer, not to exceed \$350,000 for each fiscal year."

31. Page A-11.

Strike: line 18 through line 20 in their entirety

Insert: "The Montana state lottery shall present a report to the joint appropriations subcommittee on general government and transportation of the 59th legislature that documents the return on investment of each lottery game offered during the 2005 biennium and the anticipated return on investment for each lottery game planned for the 2007 biennium. For each lottery game, the report must itemize direct and indirect costs and revenue."

32. Page A-11, line 23.

Strike: "178,370 179,194"

Insert: "188,194 189,023"

[general fund in FY04 and FY05]

33. Page A-12.

Strike: line 4 through line 5 in their entirety

34. Page B-1, line 4.

Strike: "162,721,625 162,122,187" [federal funds FY04 and FY05]

Insert: "169,721,625 170,122,187" [federal funds FY04 and FY05]

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35. Page B-1.

Strike: lines 7 and 8 in their entirety

36. Page B-1.

Strike: lines 14 and 15 in their entirety

37. Page B-1.

Strike: line 20 through line 23 in their entirety

38. Page B-2.

Strike: lines 11 and 12 in their entirety

Renumber: subsequent subsections

39. Page B-2, line 24.

Strike: "43,340,339 41,044,375"

Insert: "43,425,173 41,129,209"

40. Page B-3.

Strike: lines 4 and 5 in their entirety

Renumber: subsequent subsections

41. Page B-3, line 13.

Strike: "-- Prevention and Stabilization Fund"

42. Page B-3, line 14.

Strike: "0 1,176,797 0 1,864,975" [general fund and state special revenue FY04 and FY05]

Insert: "1,176,797 0 1,864,975 0" [general fund and state special revenue FY04 and FY05]

43. Page B-3, line 18.

Strike: "56,319,712 205,860,470 58,317,710 214,093,023"

Insert: "56,921,235 204,056,082 59,553,721 211,989,296"

44. Page B-3, line 23.

Strike: "-- Prevention and Stabilization Fund"

45. Page B-3, line 24.

Strike: "0 1,314,712 0 2,083,542" [general fund and state special revenue FY04 and FY05]

Insert: "1,314,712 0 2,083,542 0" [general fund and state special revenue FY04 and FY05]

Strike: "(855,340) (938,989)" [federal special revenue FY04 and FY05]

Insert: "3,533,046 5,473,738" [federal special revenue FY04 and FY05]

46. Page B-4, line 2.

Strike: "-- Prevention and Stabilization Fund"

47. Page B-4, line 3.

Strike: "0 4,483,981 0 7,106,166" [general fund and state special revenue FY04 and FY05]

Insert: "4,483,981 0 7,106,166 0]" [general fund and state special revenue FY04 and FY05]

48. Page B-4.

Strike: lines 4 through 7 in their entirety

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49. Page B-4, line 9.

Strike: "114,972,156" [federal special revenue FY04]

Insert: "113,627,340" [federal special revenue FY04]

50. Page B-4, line 11.

Strike: "6,077,957 16,317,456 7,089,712 18,832,208"

Insert: "5,765,245 15,477,102 6,660,796 17,705,388"

51. Page B-4.

Strike: lines 16 and 17 in their entirety

Renumber: subsequent subsections

52. Page B-4, line 20.

Strike: "Prevention and Stabilization Fund"

Insert: "County Nursing Home IGT"

53. Page B-4, line 22.

Strike: "Prevention and Stabilization Fund"

Insert: "County Nursing Home IGT"

54. Page B-4, line 23.

Strike: "261,917 612,484 278,014 641,057"

Insert: "224,080 602,173 237,851 624,866"

55. Page B-4, line 24.

Strike: "-- Prevention and Stabilization Fund"

56. Page B-4, line 25.

Strike: "0 2,793,584 0 4,427,242" [general fund and state special revenue FY04 and FY05]

Insert: "2,793,584 0 4,427,242 0" [general fund and state special revenue FY04 and FY05]

Strike: "6,162,425" [federal special revenue FY04]

Insert: "7,507,214" [federal special revenue FY04]

57. Page B-4.

Following: line 25

Insert: "h. Cigarette Tax Revenue -- Veterans' Homes (Restricted/Biennial)

250,000 250,000" [state special revenue FY04 and FY05]

58. Page B-5, line 2.

Strike: "33,564,796 34,429,491" [federal special revenue FY04 and FY05]

Insert: "33,680,598 34,606,007" [federal special revenue FY04 and FY05]

59. Page B-5 line 9.

Strike: "-- Prevention and Stabilization Fund"

60. Page B-5, line 10.

Strike: "0 433,574 0 687,124" [general fund and state special revenue FY04 and FY05]

Insert: "433,574 0 687,124 0" [general fund and state special revenue FY04 and FY05]

61. Page B-5.

Following: line 14

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Insert: "If budget reductions are enacted by emergency rule in the 2005 biennium, the legislature urges the department to provide a 30-day public notice and to conduct a public hearing prior to adoption of the emergency rules."

62. Page B-5, line 23.

Following: "1a,"

Strike: "1b,"

Following: "2a,"

Strike: "2b,"

Following: "6a through"

Strike: "6d" through "12d"

Insert: "6c, 9c, 9d, 10d, 11b through 11d, 12b, and 12c"

63. Page B-5, line 24 and line 25.

Following: "least"

Strike: "\$32 million of estimated revenue each year of the 2005 biennium"

Insert: "\$13.7 million of estimated revenue in FY04 and \$16.5 million of estimated revenue in FY05"

64. Page B-6.

Strike: lines 7 and 8 in their entirety

65. Page B-6, line 9.

Strike: "6e"

Insert: "6d"

66. Page B-6.

Following: line 15

Insert: "Appropriations in items 9f, 10c, 10e, 11g, and 12d are contingent upon approval and passage of Senate Bill No. 407."

67. Page B-6, line 15.

Strike: "9f"

Insert: "9e"

68. Page B-6.

Strike: lines 19 through 22 in their entirety

69. Page B-6, line 24.

Following: received

Strike: "\$1"

Insert: "\$2"

70. Page B-7, lines 1, 2, & 3

Strike: "11f"

Insert: "11e"

71. Page B-7.

Following: line 3

Insert: "Item 11h may be used only to operate Montana veterans' homes at a capacity to maximize collection of federal revenue and private payments."

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72. Page C-1, line 8.

Strike: "7,072,979 7,577,046" [state special revenue FY04 and FY05]

Insert: "7,042,875 7,516,839" [state special revenue FY04 and FY05]

73. Page C-4, line 4.

Strike: "\$490,104"

Insert: "\$460,000"

Strike: "\$980,207"

Insert: "\$920,000"

74. Page C-5, line 7.

Strike: "1,769,258 1,751,962" [general fund FY04 and FY05]

Insert: "1,800,863 1,783,576" [general fund FY04 and FY05]

75. Page C-5, line 23.

Strike: "8,813,997 8,861,398" [state special FY04 and FY05]

Insert: "9,067,496 9,119,467" [state special FY04 and FY05]

76. Page C-6.

Strike: line 16 through line 17 in their entirety

77. Page C-7, line 5.

Strike: "94,244 94,209" [general fund FY04 and FY05]

Insert: "99,525 99,525" [general fund FY04 and FY05]

78. Page C-7.

Strike: line 21 through line 23 in their entirety

79. Page C-8, line 1.

Strike: "1,592,710 1,631,184" [general fund FY04 and FY05]

Insert: "1,764,583 1,803,342" [general fund FY04 and FY05]

80. Page C-9.

Strike: line 16 through line 17 in their entirety

81. Page C-10, line 13.

Strike: "149,491 182,855" [general fund FY04 and FY05]

Insert: "155,778 189,134" [general fund FY04 and FY05]

82. Page C-10, line 20.

Following: "Program"

Insert: "for Lands Other Than Fish, Wildlife, and Parks Lands"

83. Page C-11.

Strike: line 2 through line 6 in their entirety

84. Page C-11.

Strike: line 8 through line 11 in their entirety

Renumber: subsequent subsections

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85. Page C-11, line 13.

Strike: "1,353,937 1,354,763" [general fund FY04 and FY05]

Insert: "1,370,581 1,371,373" [general fund FY04 and FY05]

86. Page C-12.

Strike: line 14 through line 16 in their entirety

Insert: "If legislation is not passed in a manner authorizing the payment of administrative costs from the research and commercialization state special revenue account established in 90-3-1002, the department is appropriated general fund money of \$88,804 in fiscal year 2004 and \$88,343 in fiscal year 2005 for administrative costs of the research and commercialization program."

87. Page C-12, line 17.

Strike: "4c"

Insert: "3c"

88. Page D-1, line 4.

Strike: "1,628,608 1,630,658" [general fund FY04 and FY05]

Insert: "1,645,059 1,647,129" [general fund FY04 and FY05]

89. Page D-1.

Strike: line 13 through line 14 in their entirety

90. Page D-1, line 17.

Strike: "3,263,685 3,274,433" [general fund FY04 and FY05]

Insert: "3,350,476 3,361,539" [general fund FY04 and FY05]

91. Page D-1, line 23.

Strike: "5,228,621 5,386,525" [general fund FY04 & 05]

Insert: "5,432,876 5,586,257" [general fund FY04 and FY05]

Strike: "3,669,691" [state special revenue FY04]

Insert: "3,682,047" [state special revenue FY04]

92. Page D-2, line 8.

Strike: "2,407,754 2,491,377" [general fund FY04 and FY05]

Insert: "2,200,561 2,205,697" [general fund FY04 and FY05]

Strike: "1,538,251 1,542,236" [state special revenue FY04 and FY05]

Insert: "1,500,689 1,504,758" [state special revenue FY04 and FY05]

93. Page D-2, line 10.

Strike: "1,623,340 1,623,340" [general fund FY04 and FY05]

Insert: "1,740,350 1,740,350" [general fund FY04 and FY05]

94. Page D-2.

Following: line 21

Insert: "There is appropriated from the highway patrol retirement clearing account to the department for payments to the Montana highway patrol pension fund the amount required for this transfer, not to exceed \$1,200,000 for each fiscal year."

95. Page D-3.

Strike: line 2 through line 4 in their entirety

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Insert: "Item 3 contains an increase of \$12,356 of state special revenue in fiscal year 2004. The increase is contingent upon passage and approval of House Bill No. 557."

96. Page D-3.

Strike: line 8 through line 12 in their entirety

97. Page D-3, line 17.

Strike: "2,589,276 2,592,539" [state special revenue FY04 and FY05]

Insert: "2,590,431 2,593,694" [state special revenue FY04 and FY05]

98. Page D-3, line 21.

Strike: "54,701 1,155" [state special revenue FY04 and FY05]

Insert: "53,546 0" [state special revenue FY04 and FY05]

99. Page D-4, line 8.

Strike: "1,124,938 1,124,938" [state special revenue FY04 and FY05]

Insert: "1,408,688 1,408,688" [state special revenue FY04 and FY05]

100. Page D-4, line 9.

Strike: "54,642,428 56,012,642" [general fund FY04/FY05]

Insert: "53,027,943 52,978,625" [general fund FY04 and FY05]

101. Page D-4.

Following: line 9

Insert: "a. Additional General Fund -- SB 407 Contingency (Biennial)
4,600,000" [general fund FY04]

102. Page D-4, line 11.

Strike: "376,305 377,450" [proprietary funds FY04 and FY05]

Insert: "444,411 445,556" [proprietary funds FY04 and FY05]

103. Page D-4.

Strike: line 18 through line 25 in their entirety

Insert: "The department may reallocate the appropriations in items 1 through 5 among divisions or programs when developing the 2005 biennium operating plans.

Item 3 contains an increase of \$3,500,000 of general fund money in each year of the 2005 biennium. these increases are contingent upon passage and approval of House Bill No. 363. The department may reallocate this increase in funding among divisions or programs when developing the 2005 biennium operating plans.

Item 3a is contingent upon passage and approval of Senate Bill No. 407. The department may reallocate this increase in funding among divisions or programs when developing the 2005 biennium operating plans."

104. Page D-5, line 17.

Strike: "647,507 648,473" [general fund FY04 and FY05]

Insert: "659,204 660,170" [general fund FY04 and FY05]

105. Page D-6.

Strike: line 10 through line 12 in their entirety

Insert: "Item 1 includes federal special revenue of \$605,685 in fiscal year 2004 and \$603,539 in fiscal year 2005, from the special Reed Act (a part of the Employment Security Administration Financing Act of 1954)

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distribution, that is appropriated for legitimate Wagner-Peyser employment services activities, unemployment insurance benefits, and unemployment insurance administration."

106. Page D-7, line 1.

Strike: "1,140,979 1,144,171" [general fund FY04 and FY05]

Insert: "1,182,418 1,185,272" [general fund FY04 and FY05]

107. Page D-7.

Strike: line 19 through line 21 in their entirety

108. Page E-1, line 4.

Strike: "4,492,769 4,502,763" [general fund FY04 and FY05]

Insert: "4,412,069 4,422,063" [general fund FY04 and FY05]

109. Page E-1, line 10.

Strike: "382,104,968"

Insert: "387,209,970"

110. Page E-1, line 11.

Strike: "394,959,998"

Insert: "395,010,319"

111. Page E-1, line 14.

Strike: "36,612,640 38,512,640" [General Fund FY04 and FY05]

Insert: "34,912,640 34,912,640" [General Fund FY04 and FY05]

112. Page E-3.

Strike: line 2 through line 8 in their entirety

113. Page E-3.

Strike: line 11 through line 13 in their entirety

114. Page E-3, line 16.

Strike: "159,722 159,941"

Insert: "161,358 161,557"

115. Page E-4.

Strike: line 1 through line 2 in their entirety

116. Page E-4, line 13.

Strike: "1,810,952 1,812,271"

Insert: "1,846,283 1,847,441"

Strike: "341,095 341,095" [state special revenue FY04 and FY05]

Insert: "284,100 284,100" [state special revenue FY04 and FY05]

117. Page E-4.

Following: line 13

Insert: "a. Montana Telecommunications Access Program Funding (OTO) 56,995 56,995" [state special revenue FY04 and FY05]

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118. Page E-4.

Strike: line 17 through line 19 in their entirety

119. Page E-4, line 22.

Strike: "259,396 277,798" [general fund FY04 and FY05]

Insert: "284,745 304,313" [general fund FY04 and FY05]

120. Page E-5.

Strike: line 3 through line 4 in their entirety

121. Page E-5.

Following: line 5

Insert: "If legislation is not passed in a manner authorizing the payment of administrative costs from the research and commercialization state special revenue account established in 90-3-1002, the general fund money in item 1 is reduced by \$22,543 in fiscal year 2004 and by \$23,709 in fiscal year 2005."

122. Page E-5, line 8.

Strike: "1,566,082 1,581,855"

Insert: "1,582,060 1,597,833"

123. Page E-5, line 11 through line 12.

Strike: line 11 through line 12 in their entirety

124. Page E-5.

Strike: line 16 through line 17 in their entirety

125. Page E-5, line 19

Strike: "HB"

Insert: "House Bill No."

126. Page E-5, line 21 through line 25.

Strike: line 21 through line 25 in their entirety

127. Page E-6, line 1 through line 2.

Strike: line 1 through line 2 in their entirety

128. Page E-6.

Following: line 2

Insert: "The state library commission is to report semiannually on natural resource information system activities and expenditures to the legislative finance committee during the 2003-04 interim. The report is to include the following:

- (1) a listing of current projects with the related project scope and funding amounts;
- (2) a listing of active contracts, each contract's purpose, whom the contract is with, and the funding amounts; and
- (3) categories and types of data collected."

129. Page E-6, line 5.

Strike: "834,409 848,129"

Insert: "851,923 865,502"

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130. Page E-6.

Strike: line 19 through line 21 in their entirety

131. Page E-7, line 7.

Strike: "1,308,629" [general fund FY04]

Insert: "1,318,093" [general fund FY04]

132. Page E-7, line 9.

Strike: "38,381" [general fund FY04]

Insert: "28,917" [general fund FY04]

133. Page E-7.

Strike: line 12 through line 13 in their entirety

134. Page E-7.

Strike: line 20 through line 21 in their entirety

135. Page E-8, line 3.

Strike: "102,518,826 102,637,745" [general fund FY04 and FY05]

Insert: "99,700,805 99,937,398" [general fund FY04 and FY05]

136. Page E-8, line 8.

Strike: "11,030,299 11,030,299" [general fund FY04 and FY05]

Insert: "9,980,299 9,980,299" [general fund FY04 and FY05]

137. Page E-8, line 13.

Strike: "4,663,100 4,663,100" [general fund FY04 and FY05]

Insert: "4,338,100 4,338,100" [general fund FY04 and FY05]

138. Page E-8, line 22.

Strike: "556,637" [general fund FY04]

Insert: "507,637" [general fund FY04]

139. Page E-8.

Following: line 22

Insert: "i. Fire Services Training School Moving Expenses (Biennial)
49,000" [general fund FY04]

Renumber: subsequent subsections

140. Page E-8, line 25 through page E-9, line 3.

Strike: line 25 on page E-8 through line 3 on page E-9 in their entirety

Insert: "k. Additional General Fund -- SB 407 Contingency
(Biennial)

5,500,000" [general fund FY04]

141. Page E-9.

Strike: line 16 through line 21 in their entirety

Insert: "General fund money and state and federal special revenue funds appropriated to the board of regents are included in items 1 through 10. All other public funds received by units of the Montana university system (other than plant funds appropriated in House Bill No. 5, relating to long-range building) are appropriated to the board of regents and may be expended under the provisions of 17-7-138(2). The board of regents

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shall allocate the appropriations to individual university system units, as defined in 17-7-102(13), according to board policy."

142. Page E-9, line 22.

Following: "7a,"

Insert: "7k,"

143. Page E-9, line 23.

Strike: "All"

Insert: "In addition to the requirements in 17-1-102(4), all"

144. Page E-10.

Strike: line 7 through line 8 in their entirety

145. Page E-10.

Strike: line 17 through line 21 in their entirety

146. Page E-11.

Strike: line 11 through line 16 in their entirety

147. Page E-11.

Strike: line 24 through line 25 in their entirety

148. Page E-12.

Strike: line 7 through line 8 in their entirety

149. Page E-12.

Strike: line 16 through line 19 in their entirety

150. Page E-12.

Following: line 19

Insert: "Item 7k is contingent upon passage and approval of Senate Bill No. 407."

And, as amended, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

4/7/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 12 noon, Saturday, April 5, 2003:

TITLE

NAME

Pages:

Brett McChesney, Bozeman, MT
Scott Thomas, Stevensville, MT
Chad Jonart, Butte, MT
Brett Stetzner, Butte, MT
Gabe Blomquist, Ryegate, MT
Ellie Weber, Gt. Falls, MT
Erin Esp, Fishtail, MT
Scott Eggensperger, Thompson Falls, MT

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and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, April 7, 2003:

<u>TITLE</u>	<u>NAME</u>	<u>SENATOR</u>
Pages:	Kacee Tash, Dillon, MT	Senator Tash
	Colin Dow, Billings, MT	Senator Johnson
	Drew Cummings, Lewistown, MT	Senator Butcher
	Matthew Best, Gt. Falls, MT	Senator Schmidt
	Breanna Wilson, Missoula, MT	Senator Ellingson
	Hannah Jacoby, Bozeman, MT	Senator Stonington
	Joshua York, Polson, MT	Senator Taylor
	Chance Depuis, Polson, MT	Senator Keenan

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills not concurred in and returned to the Senate: 4/5/2003

SB 308, introduced by Taylor

SB 393, introduced by Kitzenberg

SB 428, introduced by Esp, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, failed with the following vote:

4/5/2003

Yeas -53

Nays - 45

Senate bills concurred in and returned to the Senate:

4/5/2003

SB 209, introduced by Tester

SB 284, introduced by Wheat

SB 389, introduced by McGee

SB 429, introduced by Esp

SB 432, introduced by Grimes

SB 450, introduced by Cocchiarella

Senate joint resolutions concurred in and returned to the Senate:

4/5/2003

SJR 2, introduced by D. Ryan

SJR 4, introduced by Elliott

SJR 7, introduced by Laible

SJR 8, introduced by Tester

SJR 15, introduced by Nelson

SJR 16, introduced by Sprague

SJR 23, introduced by Barkus

SJR 26, introduced by Bohlinger

SJR 27, introduced by Johnson

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Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/5/2003

SB 46, introduced by Gebhardt
SB 62, introduced by D. Ryan
SB 130, introduced by McGee
SB 246, introduced by Glaser
SB 252, introduced by Squires
SB 304, introduced by Johnson
SB 330, introduced by Mangan
SB 337, introduced by Tropila
SB 340, introduced by Grimes
SB 347, introduced by Keenan
SB 360, introduced by F. Thomas
SB 362, introduced by Grimes
SB 364, introduced by Cooney
SB 370, introduced by Gebhardt
SB 381, introduced by Keenan
SB 383, introduced by Bales
SB 386, introduced by Gebhardt
SB 392, introduced by Bales
SB 395, introduced by Perry
SB 402, introduced by Cocchiarella
SB 406, introduced by McGee
SB 442, introduced by Stonington
SB 444, introduced by Tester

Senate joint resolution concurred in as amended and returned to the Senate for concurrence in House amendments:

4/5/2003

SJR 22, introduced by McGee

MOTIONS

HB 641- Senator Johnson moved he be allowed to change his vote on **HB 641**, third reading the seventy-third legislative day, from nay to yea. Motion carried.

SB 421 - Senator Grimes moved **SB 421** be taken from the Finance and Claims committee, printed and placed on second reading. Motion carried.

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:30 this day for purpose of party caucuses. Motion carried.

Senate recessed at 1:12 p.m.

Senate reconvened at 1:37 p.m.

Roll call. All members present except Senator Mahlum, excused. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on

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second reading. Motion carried. Senator Cromley in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 124 - Senator Wheat moved **HB 124** be concurred in. Motion carried unanimously.

HB 569 - Senator Bohlinger moved **HB 569** be concurred in. Motion carried as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 31

Nays: Bales, Barkus, Curtiss, Esp, Gebhardt, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: Mahlum.

Total 1

HB 602 - Senator Cobb moved **HB 602** be concurred in. Motion carried unanimously.

Senator McGee assumed the chair.

HB 663 - Senator Cromley moved **HB 663** be concurred in. Motion carried unanimously.

Senator Cromley re-assumed the chair.

HB 701 - Senator Esp moved **HB 701**, second reading copy, be amended as follows:

1. Page 1, line 17 through line 18.

Following: "~~judge~~," on line 17

Strike: remainder of line 17 through "judge," on line 18

Amendment **adopted** unanimously.

HB 701 - Senator Wheat moved **HB 701**, as amended, be concurred in. Motion carried unanimously.

SB 13 and SB 115- House Amendments - Senator Thomas moved consideration of House amendments to **SB 13** and House Amendments to **SB 115** be passed for the day. Motion carried unanimously.

SB 34 - House Amendments - Senator Barkus moved House amendments to **SB 34** be concurred in. Motion carried unanimously.

*****SB 57 - House Amendments** - Senator Keenan moved House amendments to **SB 57** be **not** concurred in. Motion carried unanimously.

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SB 65 - House Amendments - Senator Roush moved House amendments to **SB 65** be concurred in. Motion carried unanimously.

SB 76 - House Amendments - Senator Schmidt moved House amendments to **SB 76** be concurred in. Motion carried unanimously.

SB 80 - House Amendments - Senator Laible moved House amendments to **SB 80** be concurred in. Motion carried unanimously.

SB 86 - House Amendments - Senator Zook moved House amendments to **SB 86** be concurred in. Motion carried unanimously.

SB 98 - House Amendments - Senator Mangan moved House amendments to **SB 98** be concurred in. Motion carried unanimously.

SB 105 - House Amendments - Senator Johnson moved House amendments to **SB 105** be concurred in. Motion carried unanimously.

SB 110 - House Amendments - Senator Toole moved House amendments to **SB 110** be concurred in. Motion carried unanimously.

SB 113 - House Amendments - Senator Esp moved House amendments to **SB 113** be concurred in. Motion carried unanimously.

*****SB 126 - House Amendments** - Senator Story moved House amendments to **SB 126** be **not** concurred in. Motion carried unanimously.

SB 137 - House Amendments - Senator DePratu moved House amendments to **SB 137** be concurred in. Motion carried unanimously.

SB 143 - House Amendments - Senator Bohlinger moved House amendments to **SB 143** be concurred in. Motion carried unanimously.

SB 146 - House Amendments - Senator Anderson moved House amendments to **SB 146** be concurred in. Motion carried unanimously.

SB 152 - House Amendments - Senator Cocchiarella moved House amendments to **SB 152** be concurred in. Motion carried unanimously.

SB 159 - House Amendments - Senator Johnson moved House amendments to **SB 159** be concurred in. Motion carried unanimously.

SB 226 - House Amendments - Senator DePratu moved House amendments to **SB 226** be concurred in. Motion carried unanimously.

SJR 24 - House Amendments - Senator O'Neil moved House amendments to **SJR 24** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Cromley moved the Committee of the Whole report be adopted. Report adopted unanimously.

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REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman): 4/7/2003
HB 758, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman): 4/7/2003
SB 490, introduced bill, be amended as follows:

1. Title, line 14.

Following: "3-5-902,"

Strike: "AND"

Insert: "41-5-111,"

Following: "46-8-202,"

Insert: "53-21-116, AND 53-21-132,"

2. Page 3, line 24.

Following: line 23

Insert: "(f) in involuntary commitment cases pursuant to 53-21-121, reasonable compensation for services and related expenses for counsel appointed by the court;"

Renumber: subsequent sections

3. Page 3, line 28.

Following: "1999;"

Strike: "and"

4. Page 3, line 30 through page 4, line 1.

Following: "contractors," on line 30

Strike: remainder of line 30 through "(1)(a)(v)," on page 4, line 1

5. Page 4, line 2.

Following: "3-1-125"

Strike: "."

Insert: "; and

(j) costs of the youth court and youth court division operations pursuant to 41-5-111 and subsection (1)(a) of this section, except for those costs paid by other entities identified in Title 41, chapter 5, and the costs of providing youth court office, courtroom, and other space as provided in 3-1-125."

6. Page 5, line 17.

Insert: "Section 5. Section 41-5-111, MCA, is amended to read:

"**41-5-111. Court costs and expenses.** The following expenses ~~shall~~ must be a charge upon the funds of the court or other appropriate agency when applicable, upon their certification by the court:

(1) ~~the costs of medical and other examinations and treatment of a youth ordered by the court;~~

(2)(1) reasonable compensation for services and related expenses for counsel appointed by the court for a party;

(3)(2) the expenses of service of summons, notices, subpoenas, traveling expenses of witnesses, and other like expenses incurred in any proceeding under the Montana Youth Court Act as provided for by law;

(4)(3) reasonable compensation of a guardian ad litem appointed by the court; and

(5)(4) cost of transcripts and printing briefs on appeal.""

Renumber: subsequent sections

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7. Page 5, line 25.

Insert: "Section 7. Section 53-21-116, MCA, is amended to read:

"53-21-116. Right to be present at hearing or trial -- appointment of counsel. The person alleged to be suffering from a mental disorder and requiring commitment has the right to be present at any hearing or trial. If the person ~~has no attorney~~ is indigent, the judge shall appoint ~~one~~ counsel to represent the person at either the hearing or the trial, or both, ~~who and the counsel~~ must be compensated from the public funds of the county where the respondent resides pursuant to 3-5-901(1)(f)."

Insert: "Section 8. Section 53-21-132, MCA, is amended to read:

"53-21-132. Cost of examination and commitment. (1) The cost of precommitment examination, detention, treatment, and taking a person who is suffering from a mental disorder and who requires commitment to a mental health facility must be paid by the county in which the person resides at the time that the person is committed. The sheriff must be allowed the actual expenses incurred in taking a committed person to the facility, as provided by 7-32-2144.

(2) The county of residence shall also pay all precommitment expenses, including transportation to a mental health facility, incurred in connection with the detention, examination, and precommitment custody of the respondent and any cost associated with testimony during an involuntary commitment proceeding by a professional person acting pursuant to 53-21-123. However, the county of residence is not required to pay costs of treatment and custody of the respondent after the respondent is committed pursuant to this part. Precommitment costs related to the use of two-way electronic audio-video communication in the county of commitment must be paid by the county in which the person resides at the time that the person is committed. The costs of the use of two-way electronic audio-video communication from the state hospital for a patient who is under a voluntary or involuntary commitment to the state hospital must be paid by the state. The fact that a person is examined, hospitalized, or receives medical, psychological, or other mental health treatment pursuant to this part does not relieve a third party from a contractual obligation to pay for the cost of the examination, hospitalization, or treatment.

(3) The adult respondent or the parent or guardian of a minor shall pay the cost of treatment and custody ordered pursuant to 53-21-127, except to the extent that the adult or minor is eligible for public mental health program funds.

(4) A community service provider that is a private, nonpublic provider may not be required to treat or treat without compensation a person who has been committed."

Renumber: subsequent sections

8. Page 7, line 7.

Strike: "5"

Insert: "6"

9. Page 10, line 2.

Following: ". These"

Strike: "costs"

Insert: "expenses"

10. Page 10, line 3.

Following: "the"

Strike: "expenses for"

Insert: "costs of"

11. Page 10, line 7.

Following: "6;"

Strike: "and"

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12. Page 10, line 8.

Following: line 7

Insert: "(c) a youth, when counsel is assigned to represent a youth in a proceeding held pursuant to Title 41, chapter 5; and"

Renumber: subsequent subsection

13. Page 10, line 10.

Following: "These"

Strike: "costs"

Insert: "expenses"

14. Page 10, line 15.

Following: "[Section"

Strike: "7"

Insert: "10"

And, as amended, do pass. Report adopted.

SJR 31, be adopted. Report adopted.

MESSAGES FROM THE OTHER HOUSE

HB 211 - The House failed to concur in Senate amendments to **HB 211**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 211**:

4/7/2003

Representative Laszloffy, Chair
Representative Juneau
Representative Everett

HB 283 - The House failed to concur in Senate amendments to **HB 283**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 283**:

4/7/2003

Representative Fuchs, Chair
Representative Balyeat
Representative Jent

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Tuesday, April 8, 2003. Motion carried.

Senate adjourned at 3:20 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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SENATE AND HOUSE JOINT MEMORIAL SERVICE

April 6, 2003

FRANCIS BARDANOUE

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Francis Bardanoue on March 17, 2002 in Havre, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Bardanoue be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Francis Bardanoue, the second longest-serving legislator in Montana history, was born in Harlem, Montana on December 10, 1917. He was the son of Blaine County homesteaders, John Bardanoue and Alice Miller. He graduated from Harlem High School in 1937 and both he and his wife, Venus, were awarded Honorary Doctorates of Letters from Montana State University in 1996.

Francis married Venus Potts in Harlem, Montana, 1967, where they lived on the Bardanoue ranch, the third generation of Bardanoue ranchers. Francis deeply loved their three children, Kathleen, Elizabeth, and Dr. Kedric Cecil.

Francis Bardanoue was a man of integrity. He was elected to the Montana House of Representatives in 1959 where he served for 36 years. He held the respect of his colleagues for his honesty, hard work, and integrity. His longevity earned him the title 'Dean of the House'.

He was chairman of the House Appropriations Committee where he helped shape and set policy that balanced the needs of the people of Montana. He inspired people to not only advocate with vigor, but to balance the scales of financial justice. Representative Bardanoue still holds the record for moving an appropriations bill through the legislature in only three days.

Francis Bardanoue was very theatrical. He often sat in his chair, eyes closed, head on his chest. About the time people assumed he was dozing, Francis would sit straight up, slap the table with his ham-like hand, and loudly declare, "Just a minute!" Then, to everyone's amazement, he would recount statements that had been made by witnesses, followed by his usual penetrating questions.

He was a compassionate legislator, leading the effort to redesign Montana's institutions for our most vulnerable citizens. Early in his legislative career, he visited the Montana Development Center in Boulder where a young boy reached up and took his hand. From that bond, Francis returned to the legislature the next day and embarked on a continued effort to improve conditions at the Center.

He supported projects in north central Montana with his own personal funds, although he seldom allowed that fact to be publicized. The story has been told that Francis would arrive unannounced in various Montana communities asking, for example, "show me that new boiler we appropriated funds for last session." Other state-supported institutions also received such requests if Francis happened to be driving through their community. He was especially proud of his service on the farm supervisory board at the state prison, and was responsible for making the state of Montana permanent owners of Charlie Russell's art.

Always a gentleman, Francis will long be remembered in the Montana legislature for his courteous treatment of everyone. His love for Montana was total and his accomplishments profound and remembered. Francis fulfilled his purpose of making Montana a better place for all. He is survived by his wife Venus, and daughters Elizabeth Kuntz and Kathleen Barnes, son Kendrick Cecil, eleven grandchildren and ten great-grandchildren.

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FRED O. BARRETT

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Fred O. Barrett on December 8, 2002 in Moore, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Barrett be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Fred Barrett was born May 31, 1932 in Lewistown, Montana. He attended school in Hobson and graduated from Hobson High School. He then attended the University of Montana where he received a bachelor's degree and later a master's degree in guidance/counseling.

Fred served in the U.S. Army from 1952 to 1954 taking supplies to Alaska in the summer.

Fred was united in marriage to Roberta Miller of Helena in July 1963. They later divorced. There were no children born of the marriage.

Fred was State Representative for Fergus County for three terms in the early 1970s.

Fred taught at Fergus High School and was also an assistant principal for 14 years. Following his school career he was an adjuster for the State Hail Insurance. After retiring, he kept busy painting houses for others, cultivating flowers in his small greenhouse, enjoying his cats and the mountains of Montana.

Fred is survived by a sister, Delores Sharpe of Helena and two brothers, Patrick of Hobson, Montana and Howard of Carson City, Nevada.

DALE E. BERRY

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Dale E. Berry on July 5, 2002, in Hamilton Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Berry be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Dale E. Berry was born in Sidney on February 6, 1939. Dale passed away unexpectedly on May 17, 2001, in Hamilton, as a result of a pulmonary embolism.

For 62 years, Dale lived a colorful, energetic and highly productive life. He touched many lives as an educator, coach, business person, community supporter and friend to many.

Dale grew up in Fairview and attended the University of Montana on a football scholarship. He earned a degree in education with teaching certifications in physical education, sociology, and driver's education. He was a member of the Montana National Guard and saw active service in 1961 and 1962.

On August 10, 1963, Dale married Dorothy Cecrle in Hobson, Montana. He started his first coaching and teaching job at Denton, Montana, where he coached football, basketball and track, and managed the swimming pool in the summer. From there, the Berry's moved to Roundup where Dale taught and coached. Four years later, they relocated to Hamilton where Dale taught and coached twenty more years.

Dale then became fully involved in a real estate career, which he had pursued on a part-time basis while still

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teaching. In 1989, he started his own firm, the Greater Montana Land Company. This firm developed offices in Lewistown and Fort Benton, in addition to the Hamilton location.

Dale Berry contributed generously of his time, energy, and creative thinking to his community and professions. He was highly respected and recognized in each of his many fields of endeavor. As a coach, he spent eight years as a Class A representative on the Board of Directors for the Montana Coaches Association, then was elected president for four years, and also served as past president for four years. In 1988, he was inducted into the Montana Coaches Hall of Fame.

As a realtor, Dale was president of the Local Board of Realtors. In 1996, he was elected by his peers as 'Realtor of the Year'.

He served as an original member of the Hamilton School Foundation Board, and for several years, president of the Bitterroot Chamber of Commerce. He served as chairman of the Chamber Economic Development Committee and of the Port Authority Ad Hoc Study Committee. He was the Bitterroot Valley 'Business Person of the Year' in 1997.

In 2000, Dale ran for, and was elected to, the Montana House of Representatives. Before the session convened, a vacancy occurred in his Senate District and Dale was appointed to fill it. He was chosen by his colleagues to the position of Majority Whip for the 2001 session. He demonstrated great potential for a career in politics. However, fate intervened, and Dale's untimely passing prevented him from serving the second year of his term.

In addition to his wife Dorothy, Dale leaves behind two sons, Brad of Missoula and Brian of Hamilton, his mother, Gertrude Melby, of Laurel, and his brother, James Berry of Ellensburg, Washington.

HENRY STUART COX

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Henry S. Cox on March 30, 2001 in Billings, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Cox be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Henry S. Cox was born Francis Wilkes in Chicago, Illinois, March 24, 1923. He was adopted at 6 weeks old by Henry D. and Kathryn Cox, who named him Henry Stuart Cox. At a young age, he moved with his father to Ohio where he was raised by a loving extended family.

On April 11, 1944, Henry met his future wife Doris Buzard at a county music festival while he was a student at North Lima, Ohio, High School. They had 56 wonderful years of marriage. Doris said of their meeting, their mutual love of music and singing was one of the interests Hank and Doris shared. They raised five children - Karen, David, Jeanne, Mary and Danny.

Hank graduated from High School in 1941 and in the fall entered Kent State University on a baseball and basketball scholarship. He played semi-pro baseball for a time. WWII interrupted his education and he promptly enlisted in the U.S. Navy. He served in the Pacific on the aircraft carrier U.S.S. Wasp until his discharge in August 1945.

After the war, Hank re-entered college under the G.I. Bill, graduating from the University of Wyoming in 1952 with a degree in education. Hank taught several high school subjects and coached all sports including American Legion Baseball.

In 1956, Henry moved his family to Billings where he became a popular government teacher and coach at Billings

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Senior High School. He continued teaching full time and coaching golf until his retirement in 1985. During 32 years in education, he touched the lives of many students, parents and fellow educators. When asked later in life what he had taught, he would always say, "I taught kids!"

Representative Sue Dickenson spoke as also being one of Hank's "kids." She credits Hank with her interest in public affairs and running for the legislature. "Mr. Cox introduced ideas and questions in civics class which truly sparked critical thinking. Mr. Cox stressed the importance of, and the fun, in serving your community through public service. Mr. Cox was truly an inspiration to me; an honest, hard-working man with a great sense of humor and a strong sense of public responsibility."

Hank turned his love of government and politics into action when he was elected to the Billings City Council in the early 1960s. In 1966, he was elected to his first term in the Montana House of Representatives. In 1970, he was re-elected to his former seat in the Legislature where he served two additional terms.

Hank served as the Billings Mustangs' public address announcer for 20 seasons. He was a member of the Lutheran Church of the Good Shepherd. Throughout his life, he was a faithful witness for Christ.

Hank is survived by his wife Doris, and his five children and numerous grandchildren.

GLEN LYMAN DRAKE

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Glen Lyman Drake on December 12, 2001 at the UCLA Medical Center, California.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Drake be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Glen Drake was born September 29, 1927 in Billings, Montana. He was raised on the family's Duck Creek Ranch, a dry-land wheat ranch south of Billings. He attended public school in Laurel and Billings, graduating from the Northwest Nazarene Academy in Nampa, Idaho in 1945. He then entered the U.S. Navy at age 17, serving in Adack, Alaska. He attended Eastern Montana College earning a Bachelor of Arts, and the University of Montana where he received a Law degree, graduating in 1955.

Glen was united in marriage to JoMae Chase September 10, 1954 in Rochester, Minnesota. They lived in Butte, Billings, and Great Falls before settling in Helena where they lived for 35 years and raised their family of five sons - Curtis, Jeffrey, Charles, Joel, Carl and two daughters Leslie and Patty. He had a happy, caring, fun-loving personality and was a championship bowler, avid golfer, loved fishing, writing humorous limericks, singing and spending time with his family.

Glen was a member of the Helena law firm, Keller, Reynolds, Drake and Gillespie. He served as Senator to the Montana Legislature from Lewis & Clark County from 1970 to 1976, serving as a Member of the Legislative Council from 1975 to 1976.

Knowing he was nearing the end of his life, Glen Drake bravely took part in the Abucar Mechanical heart experiment at the UCLA Medical Center and was only the fourth man in the world to receive this type of mechanism. He participated in the experimental surgery to enhance the lives of others. He lived two months and six days at the Medical Center until he passed away due to complications from the surgery. For this, he will be remembered as a hero by his loving family and all who knew him.

Glen is survived by his wife of 48 years, JoMae, their seven children and ten grandchildren.

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WILLIAM ALBERT "BILL" GROFF

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of William Albert Groff on July 5, 2002, in Hamilton, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Groff be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Born in Victor, Montana on February 17, 1920 to Houston and Julia (Vice) Groff, William Albert "Bill" Groff was the son and grandson of early Bitterroot pioneers. Julia Vice was the first child of settlers to be born on the west side of the Bitterroot River. Houston Groff was an area rancher, teacher, legislator, and banker. Bill grew up on the family ranch west of Victor and attended the Victor school where his mother and father had been teachers.

He attended Kemper Military Academy in Missouri, the University of Texas, and the University of Montana. Following his graduation from U of M with a Bachelor's Degree in Business Administration, Bill enlisted in the Army in 1941, and served his country in the South Pacific Theater. He received an honorable discharge as First Lieutenant in February, 1946.

In 1946, Bill married Phyllis Ann Wiesener of Tuscola, Illinois. They made their home across from the family ranch in Victor where they raised their two daughters, Ann and Kay.

Following in his father's footsteps, Bill served as president of Farmers State Bank of Victor. He served on the bank's Board of Directors and was active in the bank until the time of his death.

Bill followed his father's example once again when he was elected to the Montana State Senate in 1954. He remained in that position for twenty years, serving as Chairman of the Finance and Claims Committee and Majority Floor Leader.

Retirement from the Senate wasn't the end of Bill's service to the State of Montana. He became Director of the Department of Revenue in 1979, after working in the department for the preceding two years. In addition, Bill served as a member of the Western States Water Rights Commission, the National Association of Tax Administrators, Chairman of the Montana Board of Housing, and a member of the Montana Commission on Practice.

The Masonic Lodge #43, VFW, Elks, the Victor Senior Citizens, the American Legion, the Eagles and the Victor School Foundation, were some of the many civic organizations to which Bill contributed considerable time and resources.

In addition to his wife, Phyllis, Bill is survived by his two daughters, Ann and Kay. The family had asked that friends could make a contribution to the Victor School Foundation where Bill's parents had been early teachers. The Victor School had been an integral part of his life from the time he entered first grade until his death. With those memorials and other resources, the Victor School W.A. Groff Memorial classroom will soon be a reality.

HOWARD "SWEDE" HAMMOND

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Howard "Swede" Hammond on October 22, 2001, in Malta, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Hammond be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

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The Montana Hi-line and Howard W. "Swede" Hammond seem to belong together. He was born in Westby in 1917, grew up in Whitewater, and got the basics for a teaching degree at Northern Montana College. His first teaching job was in Bainville in 1939. He spent most of the remainder of his life as an educator at Big Sandy.

Swede was absent from the Hi-line for only three periods: while in the service of the US Air Force in World War II, while earning bachelors and masters degrees from the University of Montana, and during the six terms he served in Montana's Senate.

Swede earned teaching majors in math, history and physical education. He taught all those subjects and more. He spent 27 years in the Big Sandy school system as teacher, coach, and school principal. Upon retirement, he and his wife Ella settled in Malta.

Swede was more than a devoted educator. He was more than a good coach. He was their mentor and friend. Charlie Klimas, an alumnus of Big Sandy School, recalled his high school principal: "The year I was a senior in high school, there were twelve kids on the Big Sandy basketball team and there was only one that had his original dad...[Swede] was certainly a second father to a lot of kids."

He was just a wonderful person and role model for all of us. He had such a great sense of values, believed in God and family and country."

Upon retiring from his long and distinguished career in teaching, coaching, and school administration, Swede Hammond ran for and was elected to the Montana Senate in 1979, where he served for twelve years.

Many Hi-line organizations and projects benefitted greatly from Swede Hammond's generous contributions of time, counsel, and resources. Those groups include the Boards of Big Sandy Medical Center and Lutheran Home of the Good Shepherd. He helped create the Big Sky Christian Youth Ranch and worked with the Montana American Legion Boys State, Montana State Association of Student Councils, Montana Coaches Association, North Central Montana School Administrators, and North Central Montana High School Principals. He was also a member of VFW, American Legion, Malta Rotary Club, and Shrine Club.

He is survived by his wife, Ella, a daughter Patricia, two sons Michael and Howard, a sister Beverly Haugen of Kremlin, and two brothers R.A. and Milton. There are nine grandchildren and one great-grandchild.

WARREN WAYNE HARPER, SR.

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Warren Harper, April 3, 2001 in Parkdale, Oregon.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Harper be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Warren Wayne Harper, former Montana State Representative, was born August 4, 1930, in Livingston, Montana to Willard and Emma McKinney Harper.

He grew up and attended school in Livingston. Warren entered the U. S. Army and served during the Korean War as a paratrooper in the 187th and 82nd Airborne Division.

Warren was awarded two Purple Hearts and a Bronze Star for his distinguished military service. Warren was discharged from the service in 1952 and returned to Livingston where he worked for the Northern Pacific Railroad as a trainmaster. He retired in 1978 after 24 years of service.

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Warren married Annabelle Mercer on August 15, 1954. The couple later divorced. He married Gayle Marchesi Michaels on August 18, 1973, in Coeur d'Alene, Idaho.

Warren Wayne Harper proudly served three terms in 1961-1966 as a Montana State Representative.

He was an active member of the Disabled American Veterans throughout his life in Livingston and Hood River, Oregon. He loved gardening, feeding birds, and all of nature. He is remembered as an enthusiastic brother, and son, who fully enjoyed life.

Warren is survived by his wife Gayle, sons Wayne and Kenneth, four daughters, Desta, Dawn, Karen, and Katherine, brothers Willard, John, and Howard, sister Lucille, 13 grandchildren and three great-grandsons.

BURT L. HURWITZ

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Burt L. Hurwitz on October 3, 2001 in White Sulphur Springs.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Hurwitz be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Burt Hurwitz was born August 16, 1911 in Butte, Montana. Due to his mother's ill health, the Hurwitz family moved to Olean, New York about 1918 where Burt grew up and completed high school. Burt entered the University of Montana forestry program in September of 1934.

Burt met June Bower at the U of M and they were married September 28, 1935 in Spokane, Washington.

During the next two years, Burt worked every job he could on weekends and Christmas vacations. The young Hurwitz couple's summers were spent at or near various ranger stations where Burt would work as an intern as part of his Ranger training. He worked on Forest Service lookouts and ran CCC crews in the summers.

He completed his forestry degree in 1938. He was hired by the U.S. Forest Service and after several other assignments, he was transferred to White Sulphur Springs in 1944 as the forest ranger.

A 94-year-old rancher made it possible for Burt to purchase the Shannon Ranch. In 1950, their first summer on the ranch, the couple spent their life savings to put up hay using horse-drawn equipment.

They renamed the ranch the Lazy BH and despite dire predictions, fluctuating cow prices, rising interest rates, droughts, floods, and forest fires Burt and his family endured and prospered. Burt was named Outstanding Forestry School Alumni of the Year in 1985.

From a young age, Burt had a conviction that community service was an important part of life. He became involved in the White Sulphur Springs community by serving on the local school board. He was urged to run for county commissioner in 1953, a post he won, and held, for the next 23 years. He felt strongly that county commissions needed to unite to bring the voice of county government to the legislature and was instrumental in the founding of MACO, The Montana Association of Counties, serving as its first president.

Burt was elected to the Montana House of Representatives in 1976 and was re-elected for two additional terms. After serving as chairman of the Human Services Subcommittee on Appropriations in 1981, Burt decided not to seek re-election. He was then appointed by former Governor Ted Schwinden to the Board of Regents, a position he held for seven years. The State of Montana has benefitted from his belief in the importance of community service and his dedication.

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Burt's greatest love was the 50 years he spent ranching in Meagher County.

Burt and June were blessed with four children; sons Dan, Ben, and Michael, and a daughter, Rosana. All four children, including his wife June, survive him, as well as his nine grandchildren.

PETER VORIOUS JACKSON III

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Peter V. Jackson III on July 9, 2002 at his ranch in Harrison, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Jackson be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Peter Jackson III was born May 18, 1927 in Butte, Montana. At the age of 16, he bought his first piece of land for his 4-H sheep project. He was very proud to have been the first 4-H'er in Madison County at the age of 12. Peter was also the first winner of the Little International Livestock Exposition in Bozeman.

Peter graduated from Harrison High School in 1946 and later enrolled at Montana State College in Bozeman majoring in business, with a dream of becoming a county extension agent.

Peter and Johnneta Peirce were united in marriage in Whitehall on April 29, 1949. To this union three sons were born, Ward, Jon, Mark; and two daughters, Shelly, and Emily.

Peter was very active in supporting his community, county and state. He was president emeritus of the Madison County Fair Board, beginning his service to the board in 1951. He served on both the Norris and Harrison School Boards.

He served one term in the State Legislature from 1971-1973, when all of the bills he sponsored were passed. He was the executive vice president of the Western Environmental Trade Association for nine years and a member of the Montana Extension Advisory Council.

Peter had many accomplishments in his life and received numerous awards. He was a life member of the Society for Range Management. He was the first recipient of the Frederic G. Renner Award in recognition of his distinguished accomplishments in promoting range management. He was state president of both the national and Montana Conservation Districts. He was the national secretary-treasurer of the Grazing Lands Conservation Initiative.

One of his proudest achievements was writing the Montana State Lands Range Conservation Plan; a plan still in use today. In 1959, he built the largest Soil Conservation Service earthen dam in the United States, creating the Norwegian Creek Reservoir.

His most cherished moments were having his home full of grandchildren and great-grandchildren. He is survived by his sons Ward and Jonathan, his daughter Michelle, his sister Bobby Paige, his grandchildren and great-grandchildren.

OSCAR SEIGEL KVALEN

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Oscar S. Kvaalen on April 11, 2002 in Sidney, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Kvaalen be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

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Oscar Seigel Kvaalen, former House Minority leader and Richland County rancher, was born January 1, 1921 in Lambert, Montana, the oldest of four children. His Father, Ostein, was a Norwegian immigrant and homesteader. Oscar was raised on a farm south of Lambert.

"The dirty thirties," as they were called, were a reality to the farm kids in the Lambert area. Oscar often talked of school activities, playing basketball in the school basement gym, and moonlight outdoor trips.

He graduated from Lambert High School and went on to attend Concordia College in Moorhead, Minnesota, where he graduated with a Bachelor of Arts degree. Later, he took graduate courses in range management at the University of Montana.

Oscar enlisted in the U. S. Navy in 1942 and served as a radar officer aboard the U.S.S. Fon Du Lac in the South Pacific Theater. He returned after the war to the Lambert area where he spent most of his life as a farmer and rancher. Oscar truly enjoyed his two grandchildren, Olivia and Lars.

Following college, Oscar worked for the Soil Conservation Service and the State Land Department before returning to the family homestead in Lambert.

Oscar married his childhood neighbor, Ruth Johnson, March 5, 1960 in Sidney. They lived on their farm south of Lambert where they raised two children.

Oscar was elected to the Montana House of Representatives where he served from 1959 until 1979, except for one legislative session. He was a member of the Ways & Means, Fish & Game, Appropriations, and Rules Committees. Representative Kvaalen also served eight sessions as a member of the House Education Committee.

Oscar was a member of the First Lutheran Church in Lambert. He was a very private man who enjoyed reading, especially history. Although he was very busy as a farmer and Representative, Oscar always had time for company, especially his children. He and Ruth enjoyed horseback rides with their family into the badlands of Burns Creek.

Oscar is survived by his wife Ruth, son Jon, daughter Elizabeth Knotts, brother Arne, two sisters, Gene and Joyce Carlson and two grandchildren.

JANET LEE MOORE

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Janet Lee Moore on April 7, 2001, at her Swan Valley Home.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mrs. Moore be filed on the official records of this Assembly and the following facts relative to her career are hereby noted:

Janet Moore was born in Walter Reed Hospital, Washington, D.C. on February 12, 1935. She and her sister, Kathleen, spent much of their childhood with aunts and uncles on a North Carolina farm and in Washington, D.C.

Janet worked for 17 years for the United States Departments of Treasury, Defense, and Agriculture. Her fondest memory of that early work was helping prepare President Eisenhower's paychecks. She also worked at the national headquarters of the U.S. Forest Service.

Janet married Frank Fitzgerald in 1952. Four children were born to Janet and Frank: Susan, Kevin, Joe, and Nancy. Frank and Janet divorced in 1970. She married Bud Moore in 1971 and moved to Missoula.

Always active in her community, Janet organized efforts to improve treatment of juvenile offenders. She helped

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organize the Montana Trappers Association and served as its first lobbyist to the Montana Legislature.

In 1983, Janet was elected as the first legislator to Montana's newly formed House District 65, and was re-elected to two additional terms.

As a State Representative, Janet's particular interests were related to wildlife, veterans' rights, and labor issues. She is remembered as a popular legislator who worked year-round helping people interpret legislation.

In addition to her tenure in the Montana House of Representatives, Janet devoted much time and support to many other civic interests. The Missoula Lady Lions Club benefitted from Janet's contributions, as well as Swan Valley Community Club in Condon. She also served as president of the Swan Valley - Condon Chapter of AARP.

Janet and her husband, Bud, co-owned Coyote Forest Management, an active business in the Swan Valley.

Janet's unconditional love for Jesus carried her through a thirteen-year struggle with cancer. Janet is survived by her husband, Bud, daughters Susan and Nancy, their sons Kevin and Joe, their step-daughter, Vicki, and stepson William.

MARCUS V. NICHOLS

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Marcus Nichols on April 17, 2000.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Nichols be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Marcus V. Nichols was a Veteran of World War II, a Captain in the United States Air Force, a farmer who loved the land, a gifted speaker, and a poet. He was born July 14, 1915 on the family homestead near Square Butte, Montana and graduated from Geraldine High School. In 1938, he received his bachelor of science degree in pre-medicine from the University of Montana.

Marcus married Ruth L. Faucett on November 28, 1945 and they had three children. Ruth passed away in 1982. In 1983, he married Patricia Weatherford of Kalispell. They spent their winters in Mesa, Arizona and summers in Kalispell.

Marcus was very active in the Eastern Star, serving as Grand Worthy Patron of Montana in 1965, and later as Right Worthy Grand Trustee of the International OES for 10 years. He was a member of Adah Chapter #17, OES of Kalispell and Denton Chapter #72 of OES. He was also past master and 60 year member of Pilgrim Lodge 102; belonged to York Rite, Algeria Shrine; the Elks Club; the American Legion; Lakeside Community Methodist Church; and associate member of Our Saviour Lutheran Church in Mesa.

As a gifted speaker, he was sought out for his programs on Americanism and his poetry presentations. He gave freely of his time and resources to aid his church, community, state, and fellow man. Sustained by his faith in God, he worked for the betterment of all.

Marcus proudly served one term in the House of Representatives in 1947.

He is survived by his wife Patricia of Kalispell, son Marcus of Lakeside, and daughters Nila of Billings, and Karol of Great Falls.

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JERRY LYNN NOBLE

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Jerry L. Noble on December 23, 2001, in Great Falls, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Noble be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Jerry Lynn Noble, Montana Senator, businessman, and barber shop vocalist, was born on March 11, 1937 to Robert and Madella Noble in Great Falls. He received his early education in Great Falls and attended the College of Great Falls. Following his military discharge from the U.S. Marine Corps, Jerry spent the rest of his life working in the tire business.

Starting at a very early age, Jerry Noble shared his time and many talents with the community of Great Falls. As a child, he was active in the Boy Scouts, achieving the rank of Eagle Scout. As an adult, he was an active member of the Elks Lodge, Great Falls Transportation Club, and the Assembly of God Church and the Great Falls Drum and Bugle Corps.

He was a member of a Great Falls Barbershop group, where he sang baritone.

In 1977, Jerry formed Jerry Noble Tires. Jerry, his son, Chuck, and long-time family friend, Dean Whitmore, later opened the Jerry Noble Tire Factory in 1999.

He demonstrated his commitment to his industry as past director of the Montana Tire Dealers Association and past director of the National Tire Dealers Association.

Jerry was married to Darlene Bolta. The couple later divorced.

Jerry was elected to the Montana Senate in 1986, and served one term, choosing not to seek re-election. Senator Noble was particularly interested in legislation related to the Montana Department of Environmental Quality.

He is survived by his mother, Madella Noble, sons Chuck and Ken, all of Great Falls, and his daughter, Diane, of Portland. Jerry is also survived by his brother, Ed, and sisters Linda Logan and Cheryl Pinsonneault.

J. DONALD OCHSNER

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of J. Donald Ochsner on September 7, 2001, at his home south of Miles City, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Ochsner be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

J. Donald Ochsner started life in Nebraska on October 25, 1919. He attended schools in Stanton County and graduated from Madison (Nebraska) High School. Soon after, he moved to Montana where he worked for his sister and brother-in-law. He attended Montana State College in Bozeman and earned a diesel engineering degree.

On November 19, 1940, in Madison, Nebraska, Don married Fern Barrett.

His ranch was his life. He farmed one year in Nebraska, and worked for a Miles City rancher before being able to have his own spread. He is credited with helping many Miles City ranchers build reservoirs on farms and ranches.

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He loved the land and his animals. Donald was happiest moving dirt with his Caterpillar to build roads and reservoirs, and when riding his favorite horse "Blue" with his cow dog at his side.

In addition to the time he spent on his farm and ranch, Don led an active civic life. He contributed generously of his time, talent, energy, and knowledge to many civic and professional organizations on a local, regional, and state level.

He was past President of the Montana Farm Bureau, a 4-H leader, and State 4-H Council President. He was a longtime member and past President of the Board of Directors of the Rural Fire Association, and at the time of his death, was on the Board of Directors of the Eagles Manor. He served as Trustee and Elder of the First Presbyterian Church. Don was a member of the local Gideon's, worked with the Northern Plains Council, and served on a local school board.

From 1981 to 1985, Don represented his Senate District in Montana's Legislature.

In later years, Don enjoyed traveling and spending winters in the South.

In addition to his wife Fern, Don is survived by two sons, Jay and Gary, and two daughters, Janet Steinley and Susan Beausoleil. There are ten grandchildren, including two grandsons currently in the military. A host of great-grandchildren also survive.

ROBERT JAMES RASMUSSEN

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Dr. Robert James Rasmussen on April 15, 2001 in Des Moines, Iowa.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Dr. Rasmussen be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Dr. Robert James Rasmussen, Montana statesman, physician, and public servant, was born August 1, 1926 in Clinton, Iowa to Otto and Helen Rasmussen. He attended grade school and high school in Clinton.

Robert was a graduate of Northwestern College of Chiropractic in St. Paul, Minnesota, and later attended LaSalle University where he was awarded a law degree. Dr. Rasmussen served his country in the army both in World War II and the Korean War.

Dr. Robert Rasmussen and Rita Ann Schaper were united in marriage November 17, 1951 in Beloit, Wisconsin. To this union were born five children. The Rasmussens lived in Glasgow until 1969 when they moved to Des Moines, Iowa.

Dr. Robert Rasmussen was a devoted and well-rounded public servant both in Montana and Iowa. He was an executive director of the Iowa Chiropractic Society and a director of professional affairs for the American Chiropractic Association.

Robert served in the Montana State Senate, District 5 in 1967, and served as an alderman and three-term mayor of the city of Glasgow. He was an officer in the Valley County Democratic Party and chairman of the City-County Planning Board of Valley County.

Robert had a special interest in the field of agriculture and in the areas of city, county, and state planning. He was particularly interested in all aspects of the healing arts and nursing, properly financed public health care, and public education. He was a member of the Elks and the Knights of Columbus, serving as Grand Knight.

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He is survived by his wife, Rita, sons Mark and Stephen, three daughters, Mary, Paula and Ann and six grandchildren.

WINSTON "GLENN" SAUNDERS

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Winston "Glenn" Saunders on July 25, 2002, in Columbus, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Saunders be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Glenn Saunders was born in Richland, Oregon, on April 24, 1916. He had been a Montanan since the age of two, when the family moved to Stillwater County. From that time, with the exception of three years when the family lived near Luther, Glenn spent his life in Stillwater County.

Glenn married Helen Mason on June 13, 1938. They made their home on Countryman Creek and also in Columbus where he farmed and worked as a high lineman and rewired homes. In 1937, he helped map Stillwater County for the ACP program. In 1956, he became the office manager of the county ASCS and represented Montana at many national conventions.

Following his retirement from a career with government agriculture programs, Glenn was elected to the Montana House of Representatives in 1982 and served for one term.

Glenn was an avid outdoorsman. He loved the time he spent hunting, fishing, trapping, and backpacking with his sons and grandsons. He was a master smallbore competitor, and was one of the main organizers of the Stillwater Rifle and Pistol Club. He was a life member of the Yellowstone Rifle Club, Montana Rifle and Pistol Association, and the National Rifle Association.

Glenn was an accomplished photographer and writer. He wrote a weekly article for the ASCS in the local paper, articles for the Outdoor Life and American Rifleman, and was pictured on the front page of the Outdoor Life following a goat hunting adventure in the 1950s.

Glenn gave generously of his time and talent to his community and church. He was an active member and past treasurer of the Columbus Congregational Church, the Stillwater Masonic Lodge, and Kiwanis. He served on boards of Rainbow Girls and DeMolay.

Glenn fought a long and valiant battle with Parkinson's disease. He is survived by Helen, his wife of 64 years, his two sons Ralph and Bruce, his daughter Glenda, his brother, Tom and sister, Cleora Russell, several grandchildren and great grandchildren.

PAUL SLITER

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Paul Sliter on August 15, 2001, in Helena, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Sliter be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Paul Sliter, former House of Representatives Majority Leader and rising Montana statesman, was born in Kalispell, May 5, 1969 to Everit and Nikki Sliter. He graduated from Flathead High School in 1987 and received a bachelor's degree in political science from the University of Montana where he was a student lobbyist and a member of the student senate.

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Thus began the extraordinary political life of Paul Sliter, the articulate Montana leader from Somers with a contagious vitality for life, and the gift of political wit and savvy.

The Sliter family has been in the lumber and hardware business for more than 60 years, and Paul worked in the family business. Paul and Elaine Johnston were married in 1997. They are the parents of a daughter, Morgan. Paul continued his political career as an intern for Senator Conrad Burns in 1992 and as a lobbyist and intern for the Montana Petroleum Marketers Association in both 1991 and 1993.

Recognized as an outstanding leader with an intuition for public policy and business, he was elected to the House of Representatives in 1994 and re-elected in 1996, 1998 and 2000. Representative Sliter served as House majority whip in 1999 and House majority leader in 2001.

He was a staunch Republican who knew how to rally his team before and during political debates. A leader in every sense of the word, Paul valued communication with both Republican and Democratic colleagues and was respected for his ability to bridge party differences.

Secretary of State Bob Brown remembers Paul Sliter: "You think of Paul, you see him smiling. He was always upbeat. He was always positive. He had this wonderful zest for life, and the grand competition in politics."

His devoted colleague, former House Speaker Dan McGee remembers Paul's complete devotion to his family, his love of the political arena, and his love for Montana.

Paul is survived by his wife, Elaine, and his daughter, Morgan; his parents, Everit and Nikki Sliter; and his brother and sister-in-law Justin and Jennifer Sliter.

BENNETT H. STEIN

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Bennett Harris Stein on December 14, 2001, in Livingston, Montana.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Stein be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Bennett Stein was born November 15, 1915 in Ravinia, Illinois. His father was a very successful lawyer, with a client list that included the famous entertainers of the time, Amos and Andy. The senior Steins entertained frequently, sometimes hiring Guy Lombardo to provide the music.

After studying English Literature at Dartmouth for a time, Bennett hitchhiked out west, catching a ride on the back of a potato truck. "When he found Montana, it was the right place for him. No one could have loved a land more than he loved Montana, according to his daughter, Linda Stein. Ben married Hildegard Balke in 1939 and they purchased a small dairy farm near Darby, where they lived for two and a half years, learning from the neighbors how to milk and butcher. They had five children and, in Ben's words, "spent wonderful days together in the ordinary routine of six square miles."

Ben worked as a journalist at the Great Falls Tribune and branched out into cattle ranching in the Shields Valley. Ben and Hildegard divorced in 1966.

In 1967, Ben purchased his place at the foot of the Crazy Mountains, married Glenna Hamilton and lived happily with her until Glenna died during heart surgery in 1978.

Ben continued to live a physically active life. He did some logging, had to snowshoe in part of most winters. He thrived on keeping fit and felt fortunate to ski, canoe, dance and hike the hills until he was past 80 years old. Linda

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remembers "at eighty, he could tire me out climbing up a mountain."

Ben edited and compiled the book "Tough Trip Through Paradise," the diaries of mountain man Andrew Garcia. It was first printed in 1967, and has been reprinted many times.

For the last six years of his life, he was limited to a sedentary lifestyle in Livingston on his four acres and with a view of the Absarokas. He then indulged himself in his love of reading.

A simple life in the presence of the Montana mountains defined Ben's existence for most of his life. When he was an English Literature major at Dartmouth, he wrote a paper entitled "Wordsworth and a Future Farmer," which his daughter Linda found and read after his death. It encapsulated the spirit with which he lived. Linda relates, "In it, my father described his experiences spending months at time in the wilderness since the age of seven, and working as a hired hand on farms as a young man." Both he, and Wordsworth, believed that an 'inner richness' could be gleaned from a life lived simply, in the presence of nature.

Ben served in the State Senate representing Park County for 14 years, from 1957 to 1971. His legislative service was distinctive in that he served part of it as a Democrat, and part as a Republican. But family and friends say he was always an independent at heart. At the time of Bennett's passing, former legislator and Supreme Court Justice Jean Turnage characterized him as "probably one of the most intelligent people that ever served in the Montana Legislature."

Bennett Harris Stein is survived by his five children, Karen, Linda, David, Leslie, and Peter and two grandchildren.

LEONARD E. VAINIO

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Leonard Vainio on April 10, 2001 in Missoula County.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Vainio be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Leonard was born February 3, 1939 in Butte, Montana. From the start of his education at St. John's Elementary in Butte, Leonard excelled in scholastics. He graduated from St. John's Elementary and Boys Central. He was valedictorian for the class of 1957 and was a recipient of several scholastic scholarships. After graduating from Boys Central, Leonard attended Seattle University on a baseball and basketball scholarship. He had the privilege to play with Elgin Baylor, who was in the NBA Hall-of-Fame.

Leonard attended the University of Washington Dental School for one year. He had excellent gross motor skills but decided the fine motor skills required for the caring of teeth were not up to par. Therefore, he elected to attend optometry school. He received his Bachelor and Doctor of Optometry degrees from Pacific University in Forest Grove, Oregon, in 1964.

In 1965, after returning to his hometown of Butte, he acquired the existing optometric practice of Dr. R. C. Haser. He later expanded this practice with satellite offices in Sheridan and Whitehall. With his brother, Dr. David Vainio, Leonard co-founded the American Eye Care Centers. Through this organization, the optometric practice was extended to most major Montana cities and Washington state.

Leonard was active in youth activities in Butte, excelling in baseball and basketball. His baseball career included American Legion, Seattle University, and the Copper League. He was one of Butte's premier shortstops. In the 1960s, he taught a 'baseball school' for Butte youths, training them in the fundamentals of the sport.

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Leonard's basketball achievements were highlighted by membership on the 1956 Butte Central "Big 32" state championship team. With the championship game falling on St. Patrick's Day, the team appeared on the floor in green uniforms, to the delight of the crowd. This 1956 champion team was inducted into the Butte Sports Hall of Fame.

Leonard followed his father's political aspirations and was elected as a Montana State Senator from Silver Bow County in 1970 and served its citizens during the 56th Legislative session. He was instrumental in securing funding for construction of the existing Mining/Geology building and library at Montana Tech and legislation for Osteopathic Physicians to hold the same status as medical doctors.

Leonard is survived by his sister Patsy, and brothers David, and Kevin, along with many nieces and nephews. All who knew him surely miss his exuberant spirit and personality.

REINO JOHN "RAY" WAYRYNEN

WHEREAS, it is with deep and sincere sorrow that the members of the Fifty-eighth Legislative Assembly of the State of Montana record the passing of Reino John Wayrynen on January 23, 2003 in Surprise, Arizona.

WHEREAS, it is fitting and proper that the record and accomplishments of the late Mr. Wayrynen be filed on the official records of this Assembly and the following facts relative to his career are hereby noted:

Ray Wayrynen, former Montana House of Representatives Speaker and minority leader, was born September 24, 1922 in Hancock, Michigan.

He moved to Butte as a child, attended Grant School, and graduated from Butte High School in 1941. Ray enlisted in the Navy Seabees during World War II, and served in the South Pacific. After returning home, he attended Worsham College in Chicago, graduating as an embalmer and funeral director.

Ray and Nielsine Lowney began their life together in 1942 and to this union their daughter, Linda, was born.

Ray's political career began in 1957 when he was elected to the Montana House of Representatives, representing Silver Bow County until 1970. He served as House minority leader in 1963 and House speaker in 1965.

In 1971, Governor Forrest Anderson appointed him to the State Board of Equalization which later became the State Tax Appeals Board. He served as chairman of this board until his retirement in 1976. A highlight of Ray's political career was personally meeting Presidents John F. Kennedy and Lyndon B. Johnson.

While residing in Butte, Ray worked for White's Funeral Home, and Sherman and Reed Mortuary, which he later purchased. He and Nielsine built Wayrynen Funeral Home on Florence Avenue.

Ray belonged to several fraternal organizations, and served as Worthy Patron of Butte Chapter No. 39, Order of the Eastern Star, Potentate of Bagdad Temple of the Shrine, and Secretary of Butte Court, Royal Order of Jesters. He was Secretary of Local Council No. 106 and Grand Secretary of Montana, Idaho, and Utah United Commercial Travelers.

Ray is survived by his wife Nielsine, daughter Linda, his grandchildren, and one great grandchild.

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
April 8, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the seventy-fourth legislative day.

MESSAGES FROM THE GOVERNOR

April 7, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 206** sponsored by Senator Anderson et al. on April 7, 2003.

Sincerely,

JUDY MARTZ
Governor

April 8, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 114** sponsored by Senator Johnson, **Senate Bill 141** sponsored by Senator Wheat, **Senate Bill 149** sponsored by Senator Barkus, **Senate Bill 183** sponsored by Senator Bohlinger, and **Senate Bill 413** sponsored by Senator Kitzenberg et al. on April 8, 2003.

Sincerely,

JUDY MARTZ
Governor

April 7, 2003

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 8, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be advised that I am withdrawing the following names previously submitted for Senate confirmation:

Board of Crime Control:

Chief Justice Karla Gray
Senator Bob Keenan
Rep. Sylvia Bookout-Reinicke
Judge Dorothy McCarter

If you have any further questions, please feel free to contact my Boards and Commissions Advisor, Susan Ames, at 444-0575.

Thank you.
Sincerely,

JUDY MARTZ
Governor

April 7, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be advised that I am withdrawing the following name previously submitted for Senate confirmation:

Board of Social Work Examiners and Professional Counselors:

Judge Richard Simonton

If you have any further questions, please feel free to contact my Boards and Commissions Advisor, Susan Ames at 444-0575.

Thank you.

Sincerely,

JUDY MARTZ
Governor

SENATE JOURNAL
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April 7, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 441, "**AN ACT PROVIDING FOR THE PRORATION OF PROPERTY TAXES ON CENTRALLY ASSESSED PROPERTY WHEN LAND IS SUBDIVIDED; AND AMENDING SECTIONS 15-16-102 AND 76-3-207, MCA**" for the following reasons.

House Bill No. 441 provides that before an individual parcel of land owned by a centrally assessed company may be subdivided, the Department of Revenue must determine a prorated assessed value and subsequent property tax liability attributed to the parcel of land being subdivided. And, once the tax liability for the parcel to be subdivided has been determined, the county treasurer may accept the payment of the prorated tax due (even though the payment is only a partial payment for total taxes owed by the centrally assessed company).

House Bill No. 441, in its current form, does not contain language that specifically states the prorated portion of the tax bill attributable to the portion of the land being sold must be paid prior to the division of the land. The amendatory veto language resolves that oversight. In addition, that was the clear intent of all parties affected by this bill. With the new language, after the prorated tax on the land being sold has been paid, the treasurer can then certify that all taxes and assessments have been paid on that portion, thus allowing the subdivision to proceed.

I have enclosed my amendment to that effect. Please be advised that the Department of Revenue concurs with this amendment. Further, please be advised that Representative Cyr, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 441

1. Page 3, line 14.

Following: "basis."

Insert: "The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold, before the division of land is made."

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SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 8, 2003

April 7, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Attached is our third and final list of board appointments not yet confirmed by the Montana Legislature. We have supplied the following information for each member:

Board Name
Member Name
Member Address and Phone Numbers
Brief Member Biography
Position Requirement

If I or my staff can be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

JUDY MARTZ
Governor

**Senate Confirmation Report - 3
2003**

Board of Architects

MCA 2-15-1761

Tobias Stapleton
1810 Lyndale Lane
Billings, MT 59102
HPH: 652-5469
BPH: 652-5469

Appt: 03/27/03
Term: 03/27/06
Qual: Licensed Architect

“Toby” received his Bachelor of Science degree in Architecture in 1958 from Montana State University. He has 40 years of architectural experience throughout Montana and adjacent states. His background includes experience in all aspects of a project, including initial programming, design, construction documents and construction administration

Coal Board

MCA 2-15-1821

Janice Riebhoff
P.O. Box 166
Belgrade, MT 59714
HPH: 587-8628
BPH: 388-3311

Appt: 03/25/03
Term: 01/01/07
Qual: Dist. 2 education representative

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Janice has earned a Bachelors degree from Western Montana College and a Masters and Doctorate from Montana State University. She taught over twenty-eight years at Belgrade Elementary School and is currently the Principal of the Belgrade Intermediate School. Janice has been a recipient of the Montana middle school Administrator of the Year award.

Kurt Hilyard
215 S. Maryland St.
Conrad, MT 59425
HPH: 765-1258
BPH: 278-3630

Appt: 03/25/03
Term: 01/01/07
Qual: Dist. 3 education representative

Kurt received his Bachelors degree from Montana State University-Billings in 1981 and his Masters degree in Education in 1986 from the University of Montana. He has been a Principal and Superintendent in Montana's schools for seventeen years. Currently he is the Kindergarten through High School Superintendent in Conrad.

Board of Dentistry

MCA 2-15-1732

Dr. George Olsen
690 S.W. Higgins Ave.
Missoula, MT 59803
HPH: 549-5869
BPH: 721-2830

Appt: 03/29/03
Term: 03/29/08
Qual: Dentist

Dr. Olsen received a B.S. in Business Administration from U of M in 1964 and received his D.D.S. from the Univ. of Washington in 1975. He has been licensed since 1975 in Montana, Washington and Hawaii. He completed the requirements for accreditation at the American Academy of Cosmetic Dentistry. He is one of only two dentists in Montana to achieve this level of Accreditation.

Montana Arts Council

MCA 2-15-1513

Ann Cogswell
441 Park Garden Rd.
Great Falls, MT 59404
HPH: 453-0248
BPH: 453-0248

Appt: 03/11/03
Term: 02/01/08
Qual: Public Member

Ann has a Masters of Arts, Music History and Literature, along with a Bachelor of Music Education from the University of Montana. She is the co-founder of the Montana Chorale, an award winning photographer, a published author, and a certified grant writer. She was named Outstanding Woman in the Arts, Great Falls YWCA (1992).

Richard Halmes
4612 Hoskin Rd.
Billings, MT 59106
HPH: 373-0947
BPH: 373-0947

Appt: 03/11/03
Term: 02/01/08
Qual: Public Member

Dick received B.S. degrees in Physical Education and Business Education from MSU in 1976. He is a horse trainer, a former football coach, a former grain marketing consultant, former TV host of "From Agriculture, Good Morning, Montana" on KFBB, and former farm news editor for KMON Radio. He still provides voice narration, audio and

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video for North Country Media Group and is a western art broker. Dick is also a former member of the Montana Indian Arts Assn.

Jackie Parsons	Appt: 03/11/03
P.O. Box 589	Term: 02/01/08
Browning, MT 59417	Qual: Public Member
HPH: 338-2874	
BPH: 338-5661	

Jackie has been the director of the Northern Plains Indian Crafts Assn. for over 30 years. She has a business degree and has passed the state bar. She is a former judge and a Native American.

Betti Hill	Appt: 03/11/03
P.O. Box 4717	Term: 02/01/08
Helena, MT 59604	Qual: Public Member
HPH: 443-6426	
BPH: 443-6426	

Betti received her Bachelor's degree in English and Fine Arts in 1976 from Western Montana College in Dillon. She was the special projects coordinator in the Governor's office and was instrumental in the organization and planning of statewide events for the office.

Stan Lynde	Appt: 03/11/03
120 Greenwood Dr.	Term: 02/01/08
Helena, MT 59601	Qual: Public Member
HPH: 495-1020	
BPH: 495-1020	

Stan was the creator, author, and artist of two highly acclaimed and world-read cartoon strips, *Rick O'Shay* and *Latigo*. He received the *Inkpot Award* for achievement in the comic arts in 1977 and the Montana *Governor's Award for the Arts* in 1983.

Montana Facility Finance Authority

MCA 2-15-1815

Joe Quilici	Appt: 03/06/03
3040 Kossuth	Term: 01/01/07
Butte, MT 59701	Qual: Public Member
HPH: 782-5772	
BPH: 782-5772	

Joe owned and operated Quilici Glass until his retirement as a business owner. He served in the Montana House of Representatives from 1971 though 1999. His extensive work with the state budget will be an asset as a Facility Finance Authority board member.

John Dudis	Appt: 03/06/03
P.O. Box 759	Term: 01/01/07
Kalispell, MT 59903	Qual: Attorney
HPH: 752-0362	
BPH: 752-6644	

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John received his law degree from the University of Montana in 1972 and his taxation degree from the University of Missouri in 1974. He is currently a general commercial attorney in the Crowley Law Firm. He has been an officer and board member on many local service organizations in the Flathead Valley.

John Bartos	Appt: 03/06/03
698 Krueger Lane	Term: 01/01/07
Corvallis, MT 59828	Qual: Public Member
HPH: 961-2408	
BPH: 363-2211	

John holds a Bachelor Degree in Business from Carroll College and a Master of Science in Administration from the University of Notre Dame. He has been a hospital administrator in Montana for over twenty-eight years. John's knowledge of rural health facility management has been noted by his colleagues throughout Montana.

State Compensation Insurance Fund MCA 2-15-1019

Jack Morgenstern	Appt: 03/24/03
P.O. Box 3536	Term: 04/28/05
Lewistown MT 59457	Qual: Policyholder and private enterprise rep.
HPH: 538-7230	
BPH: 538-9261	

Jack is the President and CEO of Century Companies, Inc. in Lewistown. His business specializes in municipal, airport, and highway maintenance construction. He is also the past president of the Montana Contractors Assn. and was instrumental in founding the Montana Contractors Compensation Fund.

Ed Henrich	Appt: 04/28/03
1300 Fairmont Road	Term: 04/28/07
Fairmont, MT 59711	Qual: Policyholder and private enterprise rep.
HPH: 797-3307	
BPH: 797-3241	

Ed is the past-president of the Innkeepers Association and has been the general manager of Fairmont Hot Springs since 1988. He received the prestigious Certified Hotel Administrator designation in 1993 from the American Hotel and Motel Educational Institute.

Mardi Madsen	Appt: 04/28/03
3524 Glenfinnan Rd.	Term: 04/28/07
Billings, MT 59101	Qual: Private enterprise representative
HPH: 248-4021	
BPH: 656-9964	

Mardi is the operations manager of the Rimrock Mall in Billings. She supervises all subcontractors working on the common area of the Mall and works with the corporate development officer regarding upgrades and remodeling to the common area. Mardi is a Certified Property Manager and a Real Estate Sales Associate.

Derek Scoble	Appt: 04/28/03
52 Sawmill Rd.	Term: 04/28/07
Clancy, MT 59634	Qual: Policyholder and private enterprise rep.

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HPH: 933-5405
BPH: 443-8266

Derek worked nearly three years at State Fund serving as their contract Chief Technical Officer and member of the executive leadership. He is an independent small business owner and has extensive business and project management experience, with specialties in strategic planning, software development, risk assessment and systems testing.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 34, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cobb, Curtiss.
Total 2

Absent or not voting: None.
Total 0

Excused: Butcher, DePratu.
Total 2

SB 65, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

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SB 76, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

SB 80, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

SB 86, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: DePratu.

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Total 1

SB 98, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Stapleton, Tester.

Total 2

Absent or not voting: None.

Total 0

Excused: DePratu.

Total 1

SB 105, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: DePratu.

Total 1

SB 110, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Esp, McGee.

Total 2

Absent or not voting: None.

Total 0

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Excused: DePratu.
Total 1

SB 113, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

SB 137, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

SB 143, as amended by the House, passed as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 42

Nays: Bales, Barkus, Curtiss, Esp, McGee, Stapleton, Mr. President.
Total 7

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Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

SB 146, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

SB 152, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Cooney, Curtiss, Stapleton, Tester, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

SB 159, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.
Total 44

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Nays: Ellingson, Elliott, Mangan, Squires, Wheat.
Total 5

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

SB 226, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

SJR 24, as amended by the House, adopted as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Barkus, Esp, Stapleton.
Total 3

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

HB 124 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 47

Nays: Esp, Stapleton.

Total 2

Absent or not voting: None.

Total 0

Excused: DePratu.

Total 1

HB 569 concurred in as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 31

Nays: Bales, Barkus, Curtiss, Esp, Gebhardt, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: DePratu.

Total 1

HB 602 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: DePratu.

Total 1

HB 663 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum,

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Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: DePratu.
Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 2 - Senator Zook moved **HB 2** be concurred in. Senator Zook explained the procedure for presentation of HB 2.

Senator Tester addressed HB 2, explaining some of the issues pertaining to HB 2 and the funding complexities therein.

1. **HB 2** - Senator Keenan moved **HB 2**, second reading copy, be amended as follows:

1. Page BP-2, line 10.

Following: "A-5"

Strike: "APPROPRIATES"

Insert: ", item 1b on page B-1, items 3b, 4b, and 6e on page B-2, item 12e on page B-6, item 1 on page C-11, item 4d on page C-12, item 4a on page D-5, item 2r on page E-2, and items 7l and 7m on page E-11 appropriate"

2. Page BP-2, line 12.

Following: "4B"

Strike: "IS"

Insert: "on page A-5, item 1b on page B-1, items 3b, 4b, and 6e on page B-2, item 12e on page B-6, item 1 on page C-11, item 4d on page C-12, item 4a on page D-5, item 2r on page E-2, and items 7l and 7m on page E-11 are"

3. Page B-1.

Following: line 10

Insert: "b. Child Care -- Coal Tax Trust (Biennial/OTO)
10,000,000" [Other Funds FY04 & FY05]

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4. Page B-2.

Following: line 3

Insert: "b. Medicaid Caseload -- Coal Tax Trust (OTO)
10,202,646 16,169,049" [Other Funds FY04 and FY05]

5. Page B-2.

Following: line 7

Insert: "b. Maintain Funding for CSED -- Coal Tax Trust (Biennial/OTO)
1,500,000" [Other Funds FY04 & FY05]

6. Page B-2.

Following: line 24

Insert: "e. MIAMI -- Coal Tax Trust (Biennial/OTO)
1,162,758" [Other Funds FY04 & FY05]

7. Page B-6.

Following: line 8

Insert: "e. MHSP Prescription Drugs -- Coal Tax Trust (Biennial/OTO)
6,000,000" [Other Funds FY04 & FY05]

8. Page B-7.

Following: line 5

Insert: "Items 1b, 3b, 4b, 6e, and 12e are appropriated from the coal severance tax permanent fund principal. These appropriations are subject to the provisions of [section 8]."

9. Page C-11.

Following: line 23

Insert: "1. Research and Commercialization (Biennial/OTO)
2,500,000" [Other Funds FY04 & FY05]

Renumber: subsequent subsections

10. Page C-12.

Following: line 15

Insert: "d. TSEP Enhancement -- Coal Tax Trust (Biennial/OTO)
5,000,000" [Other Funds FY04 & FY05]

11. Page C-13.

Following: line 8

Insert: "Items 1 and 4d are appropriated from the coal severance tax permanent fund principal. These appropriations are subject to the provisions of [section 8]."

12. Page C-13, line 9.

Strike: "3C"

Insert: "4c"

13. Page D-5.

Following: line 2

Insert: "a. Cannery -- Coal Tax Trust (Biennial/OTO)
200,000" [Other Funds FY04 & FY05]

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14. Page D-5.

Following: line 24

Insert: "Item 4a is appropriated from the coal severance tax permanent fund principal. This appropriation is subject to the provisions of [section 8]."

15. Page E-2.

Following: line 21

Insert: "r. Flex Fund -- Coal Tax Trust (Biennial/OTO)
15,000,000" [Other Funds FY04 & FY05]

16. Page E-3.

Following: line 16

Insert: "Item 2r is appropriated from the coal severance tax permanent fund principal. This appropriation is subject to the provisions of [section 8]."

17. Page E-10.

Following: line 15

Insert: "l. EPSCOR -- Coal Tax Trust (Biennial/OTO)
7,000,000 [Other Funds FY04 & FY05]
m. Unspecified Increase in Funding (Biennial)
5,000,000" [Other Funds FY04 & FY05]

18. Page E-14.

Following: line 12

Insert: "Items 7l and 7m are appropriated from the coal severance tax permanent fund principal. These appropriations are subject to the provisions of [section 8]."

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, Pease, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, O'Neil, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SECTION A -GENERAL GOVERNMENT AND TRANSPORTATION

Senator Liable explained **Section A of HB 2.**

1. Senator Laible moved Section A of HB 2 be amended as follows:

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1. Page A-2, line 7.

Strike: "1,897,342 1,871,019" [state special revenue FY04 and FY05]

Insert: "1,979,722 1,979,722" [state special revenue FY04 and FY05]

2. Page A-3, line 14.

Strike: "18"

Insert: "261"

Strike: "\$1,747,342" [state special revenue FY04]

Insert: "\$1,800,000" [state special revenue FY04]

Strike: "\$1,721,019" [state special revenue FY05]

Insert: "\$1,800,000" [state special revenue FY05]

3. Page A-3, line 16.

Strike: "18"

Insert: "261"

Amendment **adopted** unanimously.

Senator Zook moved Section A be closed. Motion carried.

SECTION B - HEALTH AND HUMAN SERVICES

Senator Cobb explained **Section B of HB 2**.

1. Senator McGee moved Section B of HB 2 be amended as follows:

1. Page B-2, line 13.

Strike: "40,546,464 40,539,237" [federal funds FY04 and FY05]

Insert: "38,540,452 38,532,752" [federal funds FY04 and FY05]

2. Page B-2.

Following: line 24

Insert: "e. Family Planning Grant Funds (Restricted)

2,006,012 2,006,485" [federal funds FY04 and FY05]"

3. Page B-7.

Following: line 13

Insert: "Money in item 6e may not be expended under contract with entities that perform abortions unless required by federal law."

Amendment **not** adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 25

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Wheat.

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Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

2. Senator Keenan moved Section B of HB 2 be amended as follows:

1. Page B-7, line 19.

Following: "therapeutic"

Strike: "group homes"

Insert: "out-of-home care for children"

2. Page B-7, line 20.

Following: "among types of"

Strike: "group homes"

Insert: "providers"

3. Page B-7, line 20.

Following: "therapeutic"

Strike: "group homes"

Insert: "out-of-home care for children"

Amendment **adopted** unanimously.

3. Senator Tester moved Section B of HB 2 be further amended as follows:

1. Page B-2, line 24.

Strike: "3,200,000 3,200,000" [state special revenue FY02 and FY03]

Insert: "3,700,000 5,500,000" [state special revenue FY02 and FY03]

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat.

Total 21

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: McNutt.

Total 1

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4. Senator Elliott moved Section B of HB 2 be further amended as follows:

1. Page B-5, line 5.

Strike: "-- Prevention and Stabilization Fund"

2. Page B-5, line 6.

Strike: "0 257,000 0 257,000" [general fund and state special revenue FY04 and FY05]

Insert: "257,000 0 257,000 0" [general fund and state special revenue FY04 and FY05]

3. Page B-6, line 24.

Following: "11B"

Insert: ", "

Strike: "THROUGH"

4. Page D-7, line 21.

Strike: "1,119,876 1,119,831"

Insert: "862,876 862,831"

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 24

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: McNutt.

Total 1

5. Senator Elliott moved Section B of HB 2 be further amended as follows:

1. Page B-5.

Following: line 21

Insert: "i. Home and Community-Based Waiver Services
279,969 752,365 279,958 735,486" [general fund and federal funds FY05 and FY05]

2. Page D-7, line 21.

Strike: "1,119,876 1,119,831"

Insert: "839,907 839,873"

Amendment **not** adopted as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson,

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Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Nays: Anderson, Bales, Barkus, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

6. Senator Stonington moved Section B of HB 2 be further amended as follows:

1. Page B-2, line 5.

Strike: "276,465 276,386"[General Fund FY04 and FY05]

Strike: "5,226,005 5,237,458"[Federal Funds FY04 and FY05]

Insert: "1,026,465 1,026,386" [General Fund FY04 and FY05]

Insert: "6,726,005 6,737,458" [Federal Funds FY04 and FY05]

2. Page B-2.

Strike: lines 6 and 7 in their entirety

3. Page B-6, line 24.

Following: "2b,"

Strike: "4a,"

4. Page B-7.

Following: line 10

Insert: "If House Bill No. 2 is passed and approved in a form that includes at least \$1.5 million of funding for child support enforcement from the coal severance tax permanent fund principal, then the appropriation in item 4 is reduced by \$750,000 in general fund money in fiscal year 2004 and by \$750,000 in general fund money in fiscal year 2005. Article IX, section 5, of the Montana constitution requires a three-fourths vote of the members of each house of the legislature for approval."

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Absent or not voting: None.

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Excused: None.
Total 0

7. Senator Cobb moved Section B of HB 2 be further amended as follows:

1. Page B-1, line 4.

Strike: "21,990,958 21,399,664" [General Fund FY04 & FY05]

Insert: "19,744,210 19,552,916" [General Fund FY04 & FY05]

2. Page B-1, line 5.

Strike: "169,721,625 170,122,187" [Federal Funds FY04 & FY05]

Insert: "155,622,941 156,023,503" [Federal Funds FY04 & FY05]

3. Page B-1.

Following: line 10

Insert: "c. Child-Care Base Funding (Restricted) 2,246,748 14,098,684 1,846,748 14,098,684" [General Fund and Federal Funds FY04 & FY05]

4. Page B-7.

Following: line 5

Insert: "Funds in item 1c may be used only to provide child-care subsidies to low-income families, except a portion of this funding may be used to support child-care quality activities at the minimum level required to maintain Montana's eligibility for the federal child-care development fund grant."

Amendment **adopted** unanimously.

8. Senator Cobb moved Section B of HB 2 be further amended as follows:

1. Page B-1, line 6.

Following: "Care"

Strike: "-- Prevention and Stabilization Fund"

2. Page B-1, line 7.

Strike: "0 0" [General Fund FY04 & FY05]

Strike: "6,101,960 8,291,981" [State Spec. Revenue FY04 & FY05]

Insert: "6,101,960 8,291,981" [General Fund FY04 & FY05]

Insert: "0 0" [State Spec. Revenue FY04 & FY05]

3. Page B-1, line 14.

Following: "Grant"

Strike: "-- Prevention and Stabilization Fund"

Insert: "(Restricted)"

4. Page B-1, line 15.

Strike: "0 0" [General Fund FY04 & FY05]

Strike: "325,013 325,013" [State Spec. Revenue FY04 & FY05]

Insert: "325,013 325,013" [General Fund FY04 & FY05]

Insert: "0 0" [State Spec. Revenue FY04 & FY05]

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5. Page B-6, line 24.

Following: "Items"

Strike: "1a,"

Following: "1b,"

Strike: "2a,"

6. Page B-7.

Following: line 5

Insert: "If House Bill No. 2 is passed and approved in a form that includes at least \$10 million of child-care funding from the coal severance tax permanent fund principal, then the appropriation in item 1a is void. Article IX, section 5, of the Montana constitution requires a three-fourths vote of the members of each house of the legislature for approval."

7. Page B-7.

Following: line 7

Insert: "Funding in item 2a may be expended only for services that are eligible for federal child-care development fund matching funds and that allow Montana to draw federal child-care matching funds."

Amendment **adopted** as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 29

Nays: Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Laible, McGee, McNutt, O'Neil, Sprague, Stapleton, Story, Tash, Taylor, Zook, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: Thomas.

Total 1

9. Senator McCarthy moved Section B of HB 2 be further amended as follows:

1. Page B-3, line 6.

Strike: "43,425,173 41,129,209" [general fund FY04 and FY05]

Insert: "43,695,824 41,388,870" [general fund FY04 and FY05]

2. Page B-4, line 23.

Strike: "6,710,828 6,744,331" [state special revenue FY04 and FY05]

Insert: "6,785,812 6,817,796" [state special revenue FY04 and FY05]

3. Page B-5, line 23.

Strike: "38,242,924 4,723,714 38,948,846 4,813,319" [general fund and state special revenue FY04 and FY05]

Insert: "38,726,514 4,730,705 39,455,186 4,820,824" [general fund and state special revenue FY04 and FY05]

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4. Page D-4, line 22.

Strike: "53,027,943 1,408,688 52,978,625 1,408,688" [general fund and state special revenue FY04 and 05]

Insert: "53,780,202 1,434,265 53,732,168 1,434,315" [general fund and state special revenue FY04and 05]

5. Page D-5, line 4.

Strike: "17,514,200 437,013 316,765 17,529,269 437,013 316,765" [general fund, state special, and federal revenue FY04 and FY05]

Insert: "17,698,932 449,703 327,375 17,714,153 449,713 327,383" [general fund, state special, and federal revenue FY04 and 05]

6. Page E-4, line 16.

Strike: "1,004,239 1,012,210" [general fund FY04 and FY05]

Insert: "1,029,411 1,037,468" [general fund FY04 and FY05]

Montana School for the Deaf and Blind - This amendment exempts direct care and medical staff in the Student Services Program at the Montana School for the Deaf and Blind from vacancy savings, resulting in an increase in general fund of \$50,430 (\$25,172 in fiscal 2004 and \$25,258 in fiscal 2005).

Amendment **not** adopted as follows:

Yeas: Anderson, Cocchiarella, Cooney, Cromley, Ellingson, Grimes, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Nays: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Zook, Mr. President.
Total 25

Absent or not voting: None.

Total 0

Excused: Elliott, Thomas.

Total 2

10. Senator Elliott moved Section B of HB 2 be further amended as follows:

1. Page B-5.

Following: line 21

Insert: "i. Home and Community-Based Waiver Services
223,975 601,892 223,975 588,412" [general fund and federal funds FY05 and FY05]

2. Page D-7, line 21.

Strike: "1,119,876 1,119,831"

Insert: "895,901 895,856"

Amendment **not** adopted as follows:

Yeas: Black, Cocchiarella, Cromley, Ellingson, Elliott, Hansen, Mangan, Nelson, Pease, Roush, Ryan, Schmidt,

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Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 18

Nays: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cooney, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Zook, Mr. President.
Total 31

Absent or not voting: None.
Total 0

Excused: Thomas.
Total 1

11. Senator Elliott moved Section B of HB 2 be further amended as follows:

1. Page B-3, line 16.

Following: "Services"

Strike: "-- Prevention and Stabilization Fund"

2. Page B-3, line 17.

Strike: "0 228,766 0 228,766" [General Fund and State Spec. Revenue FY04 and FY05]

Insert: "228,766 0 228,766 0" [General Fund and State Spec. Revenue FY04 and FY05]

3. Page B-6, line 24.

Following: "9C,"

Strike: "9D,"

4. Page D-7, line 21.

Strike: "1,119,876 1,119,831" [General Fund FY04 and FY05]

Insert: "891,110 891,065" [General Fund FY04 and FY05]

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

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12. Senator Zook moved Section B of HB 2 be further amended as follows:

1. Page B-3, line 3.

Strike: "9,006,907 9,052,065" General Fund (FY 04 & FY 05)

Insert: "2,006,907 1,052,065" General Fund (FY 04 & FY 05)

2. Page B-7.

Following: line 13

Insert: "Item 8 includes a reduction of \$7,000,000 in general fund money in fiscal year 2004 and \$8,000,000 in general fund money in fiscal year 2005. The department may reallocate this reduction in the following manner and priority level:

- (1) part (c) services for developmentally disabled children;
- (2) changes in medically needy program eligibility;
- (3) operating costs;
- (4) changes in mental health services for adults who are not eligible for medicaid."

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Zook moved **Section B of HB 2** be closed. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None
Total 0

Excused: None.
Total 0

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Senator Thomas moved the Committee of the Whole stand in recess until the hour of 2:00 p.m. this day. Motion carried. Committee arose. Senate resumed. President Keenan in the chair.

Committee of the Whole recessed at 12:56 p.m.
Committee of the Whole reconvened at 2:00 p.m.

Roll call. All members present. Quorum present.

SECTION C - NATURAL RESOURCES AND COMMERCE

Senator Tash explained **Section C of HB 2**.

1. Senator Butcher moved Section C of HB 2 be amended as follows:

1. Page C-3.

Strike: line 12 through line 13 in their entirety

Amendment **not** adopted as follows:

Yeas: Anderson, Bales, Black, Butcher, DePratu, Esp, Glaser, Mahlum, McGee, O'Neil, Story, Tash, Thomas, Zook, Mr. President.
Total 15

Nays: Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Taylor, Tester, Toole, Tropila, Wheat.
Total 35

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Zook moved **Section C of HB 2** be closed. Motion carried.

SECTION D - CORRECTIONS AND PUBLIC SAFETY

Senator Stapleton explained **Section D of HB 2**.

1. Senator Squires moved Section D of HB 2 be amended as follows:

1. Page D-5.

Following: line 2

Insert: "a. Montana Food Bank Network Cannery
100,000 100,000" [general fund FY04 & 05]

Amendment **not** adopted as follows:

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Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Nays: Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

2. Senator Bales moved Section D of HB 2 be amended as follows:

1. Page D-1, line 24.

Strike: "230,850 230,850" [general fund FY 04/05]

2. Page D-1.

Following: line 24

Insert: "a. Automated Collection System Proposal (OTO)

50,000 50,000" [state special revenue FY04/05]

3. Page D-2.

Following: line 13

Insert: "a. Fire Prevention and Investigation Bureau (OTO)

230,367 37,562 231,333 37,478" [general fund & state special revenue FY04, general fund and state special revenue FY05]

4. Page D-3.

Following: line 5

Insert: "Funds in item 2a must be used to prepare a proposal to be presented to the fifty-ninth legislature for consideration of an automated collection system."

5. Page D-3.

Following: line 22

Insert: "The department will present to the fifty-ninth legislature options for the funding and operation of the fire prevention and investigation bureau."

Amendment **not** adopted as follows:

Yeas: Anderson, Bales, Black, Butcher, Cobb, Cocchiarella, Gebhardt, Hansen, Harrington, Laible, Mahlum, Mangan, Nelson, Pease, Perry, Roush, Squires, Stonington, Tester, Tropila, Wheat.

Total 21

Nays: Barkus, Bohlinger, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Johnson, Kitzenberg, McCarthy, McGee, McNutt, O'Neil, Ryan, Schmidt, Shea, Sprague, Stapleton, Story, Tash, Taylor,

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Thomas, Toole, Zook, Mr. President.
Total 29

Absent or not voting: None.
Total 0

Excused: None.
Total 0

3. Senator Hansen moved Section D of HB 2 be amended as follows:

1. Page D-2, line 13.

Strike: "2,200,561 2,205,697" [general fund FY04 & 05]

Insert: "2,418,529 2,348,369" [general fund FY04 & 05]

Amendment **adopted** as follows:

Yeas: Anderson, Butcher, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Laible, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 26

Nays: Bales, Barkus, Black, Cromley, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: Bohlinger, Kitzenberg.
Total 2

4. Senator Shea moved Section D of HB 2 be further amended as follows:

1. Page D-2.

Following: line 6

Insert: "c. HB 711 -- Driver's License Renewal (OTO)
23,625 31,500" [state special revenue FY04/05]

2. Page D-3.

Following: line 15

Insert: "Item 3c is contingent upon passage and approval of House Bill No. 711."

Amendment **adopted** unanimously.

5. Senator Squires moved Section D of HB 2 be further amended as follows:

1. Page D-5.

Following: line 2

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Insert: "a. Montana Food Bank Network Cannery (Restricted)
100,000 100,000" [general fund FY04 & 05]

2. Page D-5.

Following: line 24

Insert: "If House Bill No. 2 is passed and approved in a form that includes at least \$200,000 of funding for the cannery from the coal severance tax permanent fund principal, then the appropriation in item 4a is void. Article IX, section 5, of the Montana constitution requires a three-fourths vote of the members of each house of the legislature for approval."

Amendment **not** adopted as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 25

Nays: Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Zook moved **Section D of HB 2** be closed. Motion carried.

SECTION E - EDUCATION

Senator Johnson explained **Section E of HB 2**.

1. Senator Tester moved Section E of HB 2 be amended as follows:

1. Page E-5, line 7.

Strike: "284,745 304,313" [general fund FY04 and FY05]

Insert: "319,745 339,313" [general fund FY04 and FY05]

2. Page E-5, line 18.

Strike: "\$22,543" [general fund FY04]

Insert: "\$57,543" [general fund FY04]

Strike: "\$23,709" [general fund FY05]

Insert: "\$58,709" [general fund FY05]

Amendment **adopted** as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea,

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Squires, Stapleton, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat.
Total 34

Nays: Bales, Barkus, Cocchiarella, DePratu, Gebhardt, Glaser, Grimes, McGee, McNutt, O'Neil, Sprague, Story, Tash, Zook, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

2. Senator Cooney moved Section E of HB 2 be further amended as follows:

1. Page E-9, line 6.

Strike: "99,700,805 99,937,398" [general fund FY04 & FY05]

Insert: "100,182,335 100,418,928"[general fund FY04 & FY05]

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 25

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

3. Senator Stapleton moved Section E of HB 2 be further amended as follows:

1. Page E-2.

Following: line 21

Insert: "s. Teacher Signing Bonuses (Restricted)
0 0" General fund FY04 & FY05

2. Page E-3.

Following: line 11

Insert: "If Senate Bill No. 267 is passed and approved in a form that provides a mechanism for funding teacher signing bonuses by requiring a reduction in general fund money for BASE aid by the amount of deposits in the guarantee account over the projected level in each previous fiscal year, general fund money in item 2s is reduced by the amount of the additional deposits, up to \$5 million in general fund money in fiscal year 2004

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and \$5 million in general fund money in fiscal year 2005, and a like amount is appropriated each year in item 2r for teacher signing bonuses."

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Zook moved **Section E of HB 2** be closed. Motion carried.

BOILERPLATE SECTION

Senator Zook moved the Boilerplate section of HB 2 be closed.

SECTION B - HUMAN SERVICES

Senator Esp moved **Section B of HB 2** be re-opened for the purpose of amendment. After discussion, Senator Esp withdrew his motion.

HB 2 - Senator Zook moved **HB 2**, as amended, be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed.

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President Keenan in the chair. Chairman Story moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **SB 490, HB 701.**

Correctly enrolled: **SB 77, SB 168, SB 191, SB 217, SB 283, SB 292, SB 306, SB 307, SB 315, SB 316, SB 325, SB 329, SB 331, SB 334, SB 341, SB 380, SB 409, SB 449, SJR 11, SR 6.**

FINANCE AND CLAIMS (Zook, Chairman):
HB 5, be amended as follows:

4/8/2003

1. Page 2, line 6.
Strike: "480,000"
Insert: "515,000"

2. Page 2.
Following: line 8
Insert: "Hazardous Material Mitigation Fund, Statewide 220,000" [LRBP]

3. Page 3.
Following: line 3
Insert: "Replace/Update Health Sciences HVAC, UM-Missoula 202,000 [LRBP]
Reconstruct Canal Bridge, MSU-Billings 150,000 [LRBP] 150,000 Federal Special Revenue, Donations, Grants, State Funds, and Higher Education Funds [Other Funding Sources]
Schematic Design, UM-Helena College of Technology 175,000" [LRBP]

4. Page 3.
Following: line 21
Insert: "Upgrade Spratt Building and Campus Electrical, MSH-Warm Springs 218,000" [LRBP]

5. Page 6.
Following: line 19

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Insert: "Brush Lake Acquisition 180,000 State Special Revenue" [Other Funding Sources]
And, as amended, be concurred in. Report adopted.

HB 9, be concurred in. Report adopted.

HB 261, be amended as follows:

1. Title, line 9.

Strike: "\$5"

Insert: "\$8"

Following: " ; "

Insert: "TEMPORARILY IMPOSING A \$15 FEE ON THE ISSUANCE OF A NEW CERTIFICATE OF TITLE;
TEMPORARILY INCREASING THE FEE FOR OBTAINING A DUPLICATE CERTIFICATE OF
OWNERSHIP;"

Following: "DEPOSIT OF THE"

Insert: "NEW AND"

2. Title, line 10.

Following: "LOAN"

Insert: "AND FUND TRANSFER; MAKING THE COURT INFORMATION TECHNOLOGY ACCOUNT
PERMANENT"

3. Title, line 11.

Strike: "15-1-122,"

Insert: "3-5-904,"

Following: "23-2-811,"

Insert: "61-3-103,"

Following: "61-3-203,"

Insert: "61-3-204,"

4. Title, line 11.

Following: "MCA,"

Insert: "SECTION 4, CHAPTER 361, LAWS OF 1995, SECTION 1, CHAPTER 71, LAWS OF 1999,"

5. Title, line 12.

Following: "PROVIDING"

Insert: "AN"

Following: "EFFECTIVE"

Strike: "DATES"

Insert: "DATE"

6. Page 1, line 17 through page 3, line 20.

Strike: section 1 in its entirety

Insert: "**Section 1.** Section 3-5-904, MCA, is amended to read:

**"3-5-904. (Temporary) Account established for court information technology. (†) There is an account
in the state special revenue fund for state funding of court information technology.**

**(2) Money collected pursuant to 3-1-317 must be deposited in this account. (Terminates June 30, 2003--sec.
1, Ch. 71, L. 1999.)"**

Renumber: subsequent sections

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7. Page 6, line 24.

Strike: "\$10"

Insert: "\$13"

8. Page 6, lines 24 and 25.

Following: "treasurer" on line 24

Strike: ", " through "justice" on line 25

9. Page 6, line 25.

Following: "and"

Insert: ", of the \$13 fee, \$5 must be forwarded to the department of revenue and must be"

Following: "fund."

Insert: "The remaining \$8 must be forwarded to the department of justice for deposit in the motor vehicle information technology system account provided for in 61-3-550."

10. Page 10, line 1.

Strike: "\$10"

Insert: "\$13"

11. Page 10, line 1 and line 2.

Following: "treasurer" on line 1

Strike: ", " through "justice" on line 2

Following: "and"

Insert: ", of the \$13 fee, \$5 must be forwarded to the department of revenue and must be"

12. Page 10, line 2.

Following: "fund."

Insert: "The remaining \$8 must be forwarded to the department of justice for deposit in the motor vehicle information technology system account provided for in 61-3-550."

13. Page 13, line 1.

Strike: "\$10"

Insert: "\$13"

14. Page 13, line 1 and line 2.

Following: "treasurer" on line 1

Strike: ", " through "deposit" on line 2

Insert: "and, of the \$13 fee, \$5 must be forwarded to the department of revenue and must be deposited"

15. Page 13, line 2.

Following: "fund."

Insert: "The remaining \$8 must be forwarded to the department of justice for deposit in the motor vehicle information technology system account provided for in 61-3-550."

16. Page 14, line 30.

Insert: "**Section 7.** Section 61-3-103, MCA, is amended to read:

"61-3-103. (Temporary) Filing of security interests -- perfection -- rights -- procedure -- fees. (1)

Except as provided in 61-3-109, the department may not file any voluntary security interest or lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the

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approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, and the amount of the lien and is signed by the debtor. The department shall file voluntary security interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or lien to the secured party. The department shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department shall return the certificate of ownership to the county treasurer in the county in which the vehicle is to be registered. The owner of a motor vehicle is the person entitled to operate and possess the motor vehicle.

(2) A security interest in a motor vehicle held as inventory by a dealer licensed under chapter 4 of this title must be perfected in accordance with Title 30, chapter 9A.

(3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two security interests previously perfected under this section, the department shall endorse on the face of the certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(4) Satisfactions or statements of release filed with the department under this chapter must be retained by it for a period of 8 years after receipt, after which they may be destroyed.

(5) Except as provided in 61-3-109 and subsection (6) of this section, a voluntary security interest or lien is perfected on the date that the lien notice and the certificate of ownership or manufacturer's statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(6) Except as provided in 61-3-109, voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date that the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date that the lien notice is delivered to the department, of the existence of the security interest.

(7) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(8) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department the sum of \$1 for each day that the person fails to file the satisfaction.

(9) Upon receipt of notice of any involuntary liens or attachments against the record of any motor vehicle registered in this state, the department shall within 24 hours mail to the owner, conditional sale vendor, mortgagees, or assignees of the owner, conditional sale vendor, or mortgagees a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court and the action and the names of the attorneys for the plaintiff and attaching creditor.

(10) It is not necessary to refile with the department any instruments on file in the offices of the county clerk and recorders at the time that this law takes effect.

(11) A fee of \$8 must be paid to the department to file any security interest or other lien against a motor vehicle. The \$8 fee includes the cost of filing a satisfaction or release of the security interest and also the cost of entering the satisfaction or release on the records of the department ~~and of deleting the endorsement of the security interest from the face of the certificate of ownership.~~ A fee of \$4 must be paid to the department for issuing a certified

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copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department or for filing an assignment of any security interest or other lien on file with the department. All fees provided for in this section must be paid to the county treasurer. Of the \$8 fee, \$4 must be deposited in the state general fund in accordance with 15-1-504. The remaining \$4 must be forwarded to the state treasurer for deposit in the motor vehicle information technology system account provided for in 61-3-550.

(12) A fee of \$15 must be paid to the department by a vehicle owner if, following satisfaction or release of a security interest and its removal from the department's records, the vehicle owner requests issuance of a new certificate of title without the security interest or lien shown on the face of the title. The \$15 fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550. (Terminates June 30, 2008--sec. 2, Ch. 260, L. 1999.)

61-3-103. (Effective July 1, 2008) Filing of security interests -- perfection -- rights -- procedure -- fees. (1) The department may not file any voluntary security interest or lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, amount of lien, and is signed by the debtor. The department shall file voluntary security interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or lien to the secured party. The department shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department shall return the certificate of ownership to the county treasurer where the vehicle is to be registered. The owner of a motor vehicle is the person entitled to operate and possess the motor vehicle.

(2) A security interest in a motor vehicle held as inventory by a dealer licensed under chapter 4 of this title must be perfected in accordance with Title 30, chapter 9A.

(3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two security interests previously perfected under this section, the department shall endorse on the face of the certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(4) Satisfactions or statements of release filed with the department under this chapter must be retained by it for a period of 8 years after receipt, after which they may be destroyed.

(5) Except as provided in subsection (6), a voluntary security interest or lien is perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(6) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the existence of the security interest.

(7) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(8) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department the sum of \$1 for each day that the person fails to file such satisfaction.

(9) Upon receipt of notice of any involuntary liens or attachments against the record of any motor vehicle

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registered in this state, the department shall within 24 hours mail to the owner, conditional sale vendor, mortgagees, or assignees of any owner, conditional sale vendor, or mortgagees a notice showing the name and address of the lien claimant, amount of the lien, date of execution of lien, and in the case of attachment the full title of the court and the action and the name of the attorneys for the plaintiff and attaching creditor.

(10) It is not necessary to refile with the department any instruments on file in the offices of the county clerk and recorders at the time this law takes effect.

(11) A fee of \$8 must be paid to the department to file any security interest or other lien against a motor vehicle. The \$8 fee must include and cover the cost of filing a satisfaction or release of the security interest and also the cost of entering the satisfaction or release on the records of the department ~~and deleting the endorsement of the security interest from the face of the certificate of ownership~~. A fee of \$4 must be paid to the department for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department or for filing an assignment of any security interest or other lien on file with the department. All fees provided for in this section must be paid to the county treasurer. Of the \$8 fee, \$4 must be deposited in the state general fund in accordance with 15-1-504. The remaining \$4 must be forwarded to the state treasurer for deposit in the motor vehicle information technology system account provided for in 61-3-550.

(12) A fee of \$15 must be paid to the department by a vehicle owner if, following satisfaction or release of a security interest and its removal from the department's records, the vehicle owner requests issuance of a new certificate of title without the security interest or lien shown on the face of the title. The \$15 fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550. (Terminates June 30, 2011--sec. 9, Ch. 394, L. 2001.)

61-3-103. (Effective July 1, 2011) Filing of security interests -- perfection -- rights -- procedure -- fees. (1) The department may not file any voluntary security interest or lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, amount of lien, and is signed by the debtor. The department shall file voluntary security interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or lien to the secured party. The department shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department shall return the certificate of ownership to the county treasurer where the vehicle is to be registered. The owner of a motor vehicle is the person entitled to operate and possess the motor vehicle.

(2) A security interest in a motor vehicle held as inventory by a dealer licensed under chapter 4 of this title must be perfected in accordance with Title 30, chapter 9A.

(3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two security interests previously perfected under this section, the department shall endorse on the face of the certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(4) Satisfactions or statements of release filed with the department under this chapter must be retained by it for a period of 8 years after receipt, after which they may be destroyed.

(5) Except as provided in subsection (6), a voluntary security interest or lien is perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(6) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection.

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Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the existence of the security interest.

(7) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(8) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department the sum of \$1 for each day that the person fails to file such satisfaction.

(9) Upon receipt of notice of any involuntary liens or attachments against the record of any motor vehicle registered in this state, the department shall within 24 hours mail to the owner, conditional sale vendor, mortgagees, or assignees of any owner, conditional sale vendor, or mortgagees a notice showing the name and address of the lien claimant, amount of the lien, date of execution of lien, and in the case of attachment the full title of the court and the action and the name of the attorneys for the plaintiff and attaching creditor.

(10) It is not necessary to refile with the department any instruments on file in the offices of the county clerk and recorders at the time this law takes effect.

(11) A fee of \$4 must be paid to the department to file any security interest or other lien against a motor vehicle. The \$4 fee must include and cover the cost of filing a satisfaction or release of the security interest and also the cost of entering the satisfaction or release on the records of the department ~~and deleting the endorsement of the security interest from the face of the certificate of ownership~~. A fee of \$4 must be paid to the department for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department or for filing an assignment of any security interest or other lien on file with the department. All fees provided for in this section must be paid to the county treasurer for deposit in the state general fund in accordance with 15-1-504.

(12) A fee of \$15 must be paid to the department by a vehicle owner if, following satisfaction or release of a security interest and its removal from the department's records, the vehicle owner requests issuance of a new certificate of title without the security interest or lien shown on the face of the title. The \$15 fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550."

Renumber: subsequent sections

17. Page 15, line 3.

Strike: "\$10"

Insert: "\$13"

18. Page 15, line 5.

Following: "be"

Insert: "paid to the county treasurer and, of the \$13 fee, \$5 must be forwarded to the department of revenue and"

19. Page 15, line 6.

Following: "fund."

Insert: "The remaining \$8 must be forwarded to the department for deposit in the motor vehicle information technology system account provided for in 61-3-550."

20. Page 15, line 7.

Insert: "Section 9. Section 61-3-204, MCA, is amended to read:

"61-3-204. Lost certificates. ~~In the event any~~ If a certificate of ownership is lost, mutilated, or becomes illegible, the owner shall immediately ~~make application~~ apply for and obtain a duplicate ~~thereof of the certificate of ownership~~, upon furnishing satisfactory evidence of ~~such the~~ facts and upon payment of a fee of ~~\$3~~ \$10. ~~Revenue from this~~ Of the \$10 fee, \$5 must be deposited in the state general fund in accordance with 15-1-504, and the

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remaining \$5 must be forwarded to the department for deposit in the motor vehicle information technology system account provided for in 61-3-550."

Renumber: subsequent sections

21. Page 15, line 11.

Strike: "and \$5"

Insert: ", \$8"

22. Page 15, line 12.

Following: "ownership"

Insert: ", and \$5 from the fee received under 61-3-204"

23. Page 15, line 14.

Following: "account"

Insert: ": (a)"

24. Page 15, line 16.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsection

25. Page 15, line 19.

Following: "system"

Strike: "."

Insert: ";

(b) in excess of the amount in subsection (3)(a), up to \$1.8 million per year, may be transferred to the account provided for in 3-5-904."

26. Page 15.

Following: line 19

Insert: "**Section 11.** Section 4, Chapter 361, Laws of 1995, is amended to read:

"**Section 4. Effective date -- termination date.** (1) [This act] is effective July 1, 1995.

(2) ~~{This act}~~ [Section 1] terminates June 30, 1999."

Insert: "**Section 12.** Section 1, Chapter 71, Laws of 1999, is amended to read:

"**Section 1.** Section 4, Chapter 361, Laws of 1995, is amended to read:

"**Section 4. Effective date -- termination date:** (1) [This act] is effective July 1, 1995.

(2) ~~{This act}~~ [Section 1] terminates June 30, ~~1999~~ 2003."

Renumber: subsequent sections

27. Page 15, line 25.

Following: "(2)"

Strike: "There"

Insert: "Except as provided in subsection (5), there"

28. Page 15, line 30.

Insert: "(5) The department of justice may not continue to expend funds on any loan from the board of investments authorized by the 58th legislature to finance the information technology system described in 17-5-2001(2)(a) after June 30, 2005, without obtaining spending authority from the 59th legislature."

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29. Page 16.

Following: line 4

Insert: "NEW SECTION. Section 15. Coordination instruction. If [this act] and House Bill No. 18 are both passed and approved and if [this act] is in a form that includes funding for court information technology, then House Bill No. 18 is void."

30. Page 16, line 6.

Following: "Effective"

Strike: "dates"

Insert: "date"

Strike: "(1)" through "[this act]"

Insert: "[This act]"

31. Page 16, line 8.

Strike: subsection (2) in its entirety

32. Page 16, line 10.

Following: "[Section]"

Strike: "10"

Insert: "14"

33. Page 16, line 13.

Strike: "9"

Insert: "10"

And, as amended, be concurred in. Report adopted.

HB 631, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

4/8/2003

HB 761, be concurred in. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 32, introduced by Grimes (by request of the Senate Judiciary Standing Committee), referred to Judiciary.

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 7, introduced by Cobb (by request of the Senate State Administration Standing Committee), referred to State Administration.

SR 8, introduced by Cobb (by request of the Senate State Administration Standing Committee), referred to State Administration.

SR 9, introduced by Cobb (by request of the Senate State Administration Standing Committee), referred to State Administration.

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MOTIONS

HB 283 - Majority Leader Thomas moved the Senate accede to the request of the House, and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 283**. Motion carried. The President appointed the following members:

Senator Sprague, chairman
Senator McGee
Senator Shea

HB 211 - Majority Leader Thomas moved the Senate accede to the request of the House, and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 211**. Motion carried. The President appointed the following members:

Senator McGee, chairman
Senator Curtiss
Senator Pease

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, April 9, 2003. Motion carried.

Senate adjourned at 5:21 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
April 9, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Bohlinger, Ryan and Thomas, excused. Quorum present.

The presiding officer has authenticated the daily journal for the seventy-fifth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SJR 32, SR 7.**

Correctly enrolled: **SJR 2, SJR 4, SJR 7, SJR 8, SJR 15, SJR 16, SJR 23, SJR 24, SJR 26, SJR 27.**

Examined by the sponsor and found to be correct: **SB 24, SB 77, SB 85, SB 101, SB 135, SB 150, SB 163, SB 166, SB 180, SB 188, SB 197, SB 211, SB 220, SB 241, SB 249, SB 254, SB 262, SB 283, SB 292, SB 302, SB 315, SB 325, SB 329, SB 331, SB 341, SB 380, SB 409, SB 445, SB 460, SJR 9, SJR 14.**

Signed by the President at 2:00 p.m., April 7, 2003: **SB 85, SB 101, SB 135, SB 180, SB 188, SB 197, SB 211, SB 249, SB 262, SB 302.**

Signed by the President at 8:00 a.m., April 8, 2003: **SB 24, SB 150, SB 163, SB 166, SB 220, SB 241, SB 254, SB 445, SB 460, SJR 9, SJR 14.**

Signed by the President at 4:00 p.m., April 8, 2003: **SB 77, SB 283, SB 292, SB 315, SB 325, SB 329, SB 331, SB 341, SB 380, SB 409.**

Signed by the Secretary of the Senate at 8:30 a.m., April 8, 2003: **SB 85, SB 101, SB 135, SB 180, SB 188, SB 197, SB 211, SB 249, SB 262, SB 302.**

Signed by the Secretary of the Senate at 9:00 a.m., April 8, 2003: **SB 24, SB 150, SB 163, SB 166, SB 220, SB 241, SB 254, SB 445, SB 460, SJR 9, SJR 14.**

Signed by the Secretary of the Senate at 8:30 a.m., April 9, 2003: **SB 77, SB 283, SB 292, SB 315, SB 325, SB 329, SB 331, SB 341, SB 380, SB 409.**

Signed by the Speaker at 10:30 a.m., April 8, 2003: **SB 85, SB 101, SB 135, SB 180, SB 188, SB 197, SB 211, SB 249, SB 262, SB 302.**

Signed by the Speaker at 10:45 a.m., April 8, 2003: **SB 24, SB 150, SB 163, SB 166, SB 220, SB 241, SB 254, SB 445, SB 460, SJR 9, SJR 14.**

Signed by the Speaker at 9:35 a.m., April 9, 2003: **SB 77, SB 283, SB 292, SB 315, SB 325, SB 329, SB 331, SB 341, SB 380, SB 409.**

Delivered to the Governor for approval at 11:00 a.m., April 8, 2003: **SB 24, SB 150, SB 163, SB 166, SB 220, SB 241, SB 254, SB 445, SB 460.**

Delivered to the Governor for approval at 11:30 a.m., April 8, 2003: **SB 85, SB 101, SB 135, SB 180, SB 188, SB 197, SB 211, SB 249, SB 262, SB 302.**

Delivered to the Governor for approval at 10:15 a.m., April 9, 2003: **SB 77, SB 283, SB 292, SB 315, SB 325, SB 329, SB 331, SB 341, SB 380, SB 409.**

Delivered to the Secretary of State at 2:00 a.m., April 8, 2003: **SJR 9, SJR 14.**

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/8/2003

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HB 17, introduced by Newman
HB 20, introduced by Golie
HB 40, introduced by Newman
HB 50, introduced by Haines
HB 54, introduced by Newman
HB 67, introduced by Kaufmann
HB 76, introduced by McKenney
HB 98, introduced by McKenney
HB 104, introduced by Bergren
HB 110, introduced by Lange
HB 123, introduced by P. Clark
HB 127, introduced by Fritz
HB 134, introduced by Weiss
HB 145, introduced by McKenney
HB 155, introduced by Jent
HB 157, introduced by Haines
HB 161, introduced by Matthews
HB 169, introduced by Keane
HB 170, introduced by Parker
HB 171, introduced by Parker
HB 179, introduced by Matthews
HB 183, introduced by Steinbeisser
HB 210, introduced by Shockley
HB 218, introduced by Bookout-Reinicke
HB 220, introduced by Laszloffy
HB 222, introduced by Parker
HB 224, introduced by Shockley
HB 237, introduced by Brueggeman
HB 269, introduced by Bergren
HB 303, introduced by A. Olson
HB 337, introduced by Ripley
HB 481, introduced by Lewis
HB 499, introduced by Franklin
HB 527, introduced by Mendenhall
HB 532, introduced by Stoker

Senate amendments to House bills **not** concurred in:

4/8/2003

HB 107, introduced by A. Olson
HB 197, introduced by Becker
HB 201, introduced by Jent
HB 259, introduced by Maedje
HB 277, introduced by Lindeen
HB 298, introduced by Younkin
HB 304, introduced by A. Olson
HB 308, introduced by Musgrove
HB 642, introduced by Devlin

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SB 57 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 57**:

4/8/2003

Representative B. Thomas, Chair
Representative Gallus
Representative Lange

HB 308 - The House failed to concur in Senate amendments to **HB 308**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested the Senate appoint a like committee to confer on **HB 308**:

4/8/2003

Representative Shockley, Chair
Representative Musgrove
Representative Stoker

HB 197 - The House failed to concur in Senate amendments to **HB 197**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested the Senate appoint a like committee to confer on **HB 197**:

4/9/2003

Representative Noennig, Chair
Representative Becker
Representative B. Thomas

HB 304 - The House failed to concur in Senate amendments to **HB 304**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested the Senate appoint a like committee to confer on **HB 304**:

4/8/2003

Representative A. Olson, Chair
Representative Rice
Representative B. Ryan

HB 298 - The House failed to concur in Senate amendments to **HB 298**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested the Senate appoint a like committee to confer on **HB 298**:

4/8/2003

Representative Younkin, Chair
Representative Jacobson
Representative Noennig

HB 201 - The House failed to concur in Senate amendments to **HB 201**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested the Senate appoint a like committee to confer on **HB 201**:

4/8/2003

Representative D. Brown, Chair
Representative Jent
Representative Wagman

HB 259 - The House failed to concur in Senate amendments to **HB 259**, authorized the Speaker to appoint the following **Conference** Committee, and requested the Senate appoint a like committee to confer on Senate amendments to **HB 259**:

4/8/2003

Representative Maedje, Chair
Representative Gallik
Representative Lake

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HB 277 - The House failed to concur in Senate amendments to **HB 277**, authorized the Speaker to appoint the following **Conference** Committee, and requested the Senate appoint a like committee to confer on Senate amendments to **HB 277**:
4/8/2003

Representative Younkin, Chair
Representative Haines
Representative Lindeen

HB 642 - The House failed to concur in Senate amendments to **HB 642**, authorized the Speaker to appoint the following **Conference** Committee, and requested the Senate appoint a like committee to confer on Senate amendments to **HB 642**:
4/8/2003

Representative Devlin, Chair
Representative Golie
Representative Lambert

MOTIONS

FREE CONFERENCE COMMITTEES

SB 57 - Senator Stapleton moved the President be authorized to appoint a **Free** Conference Committee and request the House to appoint a like committee to confer on **SB 57**. Motion carried. The President appointed the following members:

Senator Wheat, Chairman
Senator Keenan
Senator Mangan

HB 197 - Senator Stapleton moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 197**. Motion carried. The President appointed the following members:

Senator Perry, Chairman
Senator Mangan
Senator Curtiss

HB 308 - Senator Stapleton moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 308**. Motion carried. The President appointed the following members:

Senator O'Neil, Chairman
Senator Cromley
Senator Pease

CONFERENCE COMMITTEE

HB 259 - Senator Stapleton moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 259**. Motion carried. The President appointed the following members:

Senator DePratu, Chairman

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Senator Curtiss
Senator Cocchiarella

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 492, introduced by Johnson (by request of the Senate Finance Standing Committee), referred to Finance and Claims

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Keenan retained the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 111 - House Amendments - Senator Nelson moved House amendments to **SB 111** be concurred in. Motion carried unanimously.

Senator Nelson assumed the chair.

SB 13 - House Amendments - Senator Mahlum moved House amendments to **SB 13** be concurred in. Motion carried unanimously.

SB 115 - House Amendments - Senator Mahlum moved House amendments to **SB 115** be concurred in. Motion carried unanimously.

SB 47 - Conference Committee Report No. 1 - Senator Gebhardt moved the Conference Committee report to **SB 47** be adopted. Motion carried with Senator Grimes voting nay.

Senator Ryan present at this time.

HB 56 - Conference Committee Report No. 1 - Senator Esp moved the Conference Committee report to **HB 56** be adopted. Motion carried unanimously.

HB 403 - Conference Committee Report No. 1 - Senator Anderson moved the Conference Committee report to **HB 403** be adopted. Motion carried unanimously.

Senator Tester excused at this time.

HB 758 - Senator Tropila moved **HB 758** be concurred in. After discussion, Senator Anderson moved **HB 758**, second reading copy, be amended. After discussion, Senator Anderson withdrew his amendment.

HB 758 - Senator Toole moved **HB 758**, second reading copy, be amended as follows:

1. Title, page 1, line 5.

Following: "MACHINES;"

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Insert: "CHANGING THE VIDEO GAMBLING MACHINE TAX ON MACHINES ON A LICENSED PREMISES BASED ON THE TOTAL ANNUAL GROSS INCOME OF MACHINES ON A PREMISES; PROVIDING THAT THE INCREASED REVENUE IS TO BE DEPOSITED IN THE PREVENTION AND STABILIZATION ACCOUNT;"

2. Title, page 1, line 10.

Strike: "SECTION"

Insert: "SECTIONS 23-5-610 AND"

3. Page 1, line 19.

Insert: "Section 2. Section 23-5-610, MCA, is amended to read:

"23-5-610. (Temporary) Video gambling machine gross income tax -- credit -- records -- distribution -- quarterly statement and payment. (1) A licensed machine owner shall pay to the department a video gambling machine tax ~~of 15% of~~ based on the gross income from each location with video gambling ~~machine~~ machines issued a permit under this part. A licensed machine owner may deduct from the gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and physical removal of the money from the machines or of machine tampering and the amounts stolen are documented. The video gambling machine tax rate is based on the total annual gross income from machines at each location as follows:

(a) 15% of total gross income if the total annual gross income is less than \$150,000;

(b) 20% of the next \$300,000 of total annual gross income;

(c) 25% of the next \$300,000 of total annual gross income; and

(d) 30% of total annual gross income in excess of \$750,000.

(2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for which a permit has been issued under this part if:

(i) the permit was active for the video gambling machine during the 12-month period ending December 31, 2001;

(ii) the department determines that the video gambling machine is incapable, in the form in which it was approved by the department, of communicating with the automated accounting and reporting system authorized by 23-5-637; and

(iii) the licensed machine owner participates in the automated accounting and reporting system and incurs actual hardware or software costs prior to January 1, 2005, for conversion of the video gambling machine to make it compatible with the automated system.

(b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling machine or the actual hardware and software cost necessary for conversion of the video gambling machine to the automated accounting and reporting system, whichever is less.

(3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for the quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is connected to the automated accounting and reporting system authorized by 23-5-637.

(4) A licensed machine owner shall keep a record of the gross income from each video gambling machine issued a permit under this part in the form the department requires. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(5) (a) For each video gambling machine issued a permit under this part but not connected to the department's automated accounting and reporting system, a licensed machine owner shall, within 15 days after the end of each quarter and in the manner prescribed by the department, complete and deliver to the department a statement showing the total gross income, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The statement must contain other relevant information that the department requires.

(b) For each video gambling machine issued a permit under this part that is connected to the department's automated accounting and reporting system, the department shall, within 5 working days after the end of each quarter,

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complete and deliver to the licensed machine owner (with a copy sent to the licensed operator, if different from the licensed machine owner, on whose premises the machine is placed) a statement showing the total gross income from the video gambling machine, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The licensed machine owner shall remit the total amount due the state under this subsection within 25 days after the end of each quarter.

(6) Except as provided in subsection (7), the department shall, in accordance with the provisions of 15-1-501, forward the tax collected under subsection (5) to the general fund.

(7) Receipts from the taxes collected under this section are pledged and dedicated to guarantee repayment of loans participated in under 23-5-638 in an amount sufficient to meet the prepayment obligation for the fiscal year during which the loans are made. The amount of taxes pledged by this subsection is the dollar amount of loan participation under 23-5-638 and must be allocated to a separate account in the short-term investment pool. The board of investments is not entitled to use the proceeds from taxes collected under this section to repay a loan made under 23-5-638 unless the board certifies that all other commercially available means of collection on the loan have been exhausted. (Terminates December 31, 2005--sec. 10, Ch. 424, L. 1999.)

23-5-610. (Effective January 1, 2006) Video gambling machine gross income tax -- credit -- records -- distribution -- quarterly statement and payment. (1) A licensed machine owner shall pay to the department a video gambling machine tax ~~of 15% of~~ based on the gross income from each location with video gambling ~~machine~~ machines issued a permit under this part. A licensed machine owner may deduct from the gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and physical removal of the money from the machines or of machine tampering and the amounts stolen are documented. The video gambling machine tax rate is based on the total annual gross income from machines at each location as follows:

(a) 15% of total gross income if the total annual gross income is less than \$150,000;

(b) 20% of the next \$300,000 of total annual gross income;

(c) 25% of the next \$300,000 of total annual gross income; and

(d) 30% of total annual gross income in excess of \$750,000.

(2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for which a permit has been issued under this part if:

(i) the permit was active for the video gambling machine during the 12-month period ending December 31, 2001;

(ii) the department determines that the video gambling machine is incapable, in the form in which it was approved by the department, of communicating with the automated accounting and reporting system authorized by 23-5-637; and

(iii) the licensed machine owner participates in the automated accounting and reporting system and incurs actual hardware or software costs prior to January 1, 2005, for conversion of the video gambling machine to make it compatible with the automated system.

(b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling machine or the actual hardware and software cost necessary for conversion of the video gambling machine to the automated accounting and reporting system, whichever is less.

(3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for the quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is connected to the automated accounting and reporting system authorized by 23-5-637.

(4) A licensed machine owner shall keep a record of the gross income from each video gambling machine issued a permit under this part in the form the department requires. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(5) (a) For each video gambling machine issued a permit under this part but not connected to the department's automated accounting and reporting system, a licensed machine owner shall, within 15 days after the end of each quarter and in the manner prescribed by the department, complete and deliver to the department a statement showing the total gross income, together with the total amount due the state as video gambling machine gross income tax for the preceding

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quarter. The statement must contain other relevant information that the department requires.

(b) For each video gambling machine issued a permit under this part that is connected to the department's automated accounting and reporting system, the department shall, within 5 working days after the end of each quarter, complete and deliver to the licensed machine owner (with a copy sent to the licensed operator, if different from the licensed machine owner, on whose premises the machine is placed) a statement showing the total gross income from the video gambling machine, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The licensed machine owner shall remit the total amount due the state under this subsection within 25 days after the end of each quarter.

(6) The department shall, in accordance with the provisions of 15-1-501, forward the tax collected under subsection (5) to as follows:

(a) 18.8% to the prevention and stabilization account; and

(b) 81.2% to the general fund."

Renumber: subsequent sections

4. Page 2, line 15.

Insert: "NEW SECTION. Section 4. State special revenue account. There is a prevention and stabilization account in the state special revenue fund provided for in 17-2-102. Money in the account must be used by the department of public health and human service to finance, administer, and provide health and human services."

Renumber: subsequent sections

5. Page 2, line 23.

Insert: "NEW SECTION. Section 6. Coordination instruction. If a prevention and stabilization account or fund is established in any other legislation enacted by the 2003 legislature, then the reference to the prevention and stabilization account in [section 2] refers to that account or fund and [section 4] is void."

Insert: "NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Renumber: subsequent sections

6. Page 2, line 28.

Following: "to"

Insert: "gross income from video gambling machines received after June 30, 2003.

(3) [Section 3] applies to"

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cobb, Cooney, Cromley, Ellingson, Grimes, Johnson, Schmidt, Toole.

Total 9

Nays: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tropila, Wheat, Zook, Mr. President.

Total 39

Absent or not voting: None.

Total 0

Excused: Tester, Thomas.

Total 2

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HB 758 - Senator Ellingson moved **HB 758**, second reading copy, be amended as follows:

1. Title, page 1, line 8.

Following: "ESTABLISHMENTS"

Insert: "LOCATED IN THE CITY OF HELENA"

2. Page 1, line 15.

Following: "--"

Insert: "Helena"

3. Page 1, line 16.

Following: "establishment"

Insert: "located in the city of Helena"

Amendment **not** adopted as follows:

Yeas: Anderson, Bohlinger, Cobb, Cooney, Cromley, Ellingson, Harrington, Johnson, Nelson, Schmidt, Stonington, Toole, Wheat.

Total 13

Nays: Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tropila, Zook, Mr. President.

Total 35

Absent or not voting: None.

Total 0

Excused: Tester, Thomas.

Total 2

HB 758 - Senator Cooney moved **HB 758**, second reading copy, be amended as follows:

1. Title, page 1, line 10.

Following: "SMOKING"

Insert: "EXCEPT FOR CERTAIN SELF-GOVERNING LOCAL GOVERNMENTS IN WHICH THE VOTERS HAVE ADOPTED THE ORDINANCE THROUGH AN ELECTION"

2. Page 1, line 16.

Following: "law"

Insert: "-- exception"

Following: "."

Strike: "An"

Insert: "(1) Except as provided in subsection (2), an"

3. Page 1, line 19.

Following: line 18

Insert: "(2) This section does not apply to a self-governing local government in which the voters have adopted a local government ordinance through an election held prior to [the effective date of this act]."

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Amendment **not** adopted as follows:

Yeas: Anderson, Bohlinger, Butcher, Cobb, Cooney, Cromley, Ellingson, Grimes, Harrington, Johnson, Nelson, Schmidt, Stonington, Taylor, Toole, Wheat.

Total 16

Nays: Bales, Barkus, Black, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Tropila, Zook, Mr. President.

Total 32

Absent or not voting: None.

Total 0

Excused: Tester, Thomas.

Total 2

HB 758 - Senator Cooney moved **HB 758**, second reading copy, be amended as follows:

1. Title, line 7.

Strike: "STATE GENERAL FUND"

Insert: "PREVENTION AND STABILIZATION ACCOUNT"

2. Page 2, line 13 through line 14.

Following: "THE"

Strike: "STATE GENERAL FUND"

Insert: "[prevention and stabilization account established in section 14 of House Bill No. 722]"

3. Page 2, line 23.

Insert: "NEW SECTION. Section 4. Coordination instruction. If House Bill No. 722 is not passed and approved, then the bracketed language in [section 2 of this act], amending 23-5-612, is replaced with the phrase "state special revenue fund to the credit of the department of public health and human services for state matching funds for medicaid-funded services.""

Renumber: subsequent sections

Amendment **not** adopted as follows:

Yeas: Bohlinger, Cobb, Cooney, Cromley, Ellingson, Harrington, Johnson, Schmidt, Toole.

Total 9

Nays: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tropila, Wheat, Zook, Mr. President.

Total 39

Absent or not voting: None.

Total 0

Excused: Tester, Thomas.

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Total 2

Senator Glaser rose on a point of information regarding rule 7-60-20 and the 8 amendments offered by Senator Cooney. Chairman Nelson ruled Senator Cooney was not trying to delay or obstruct business, and would allow the remaining amendments.

HB 758 - Senator Cooney moved **HB 758**, second reading copy, be amended as follows:

1. Title, line 6.

Following: "FEE"

Insert: "AND EXEMPTIONS FROM THE FEE"

2. Page 1, line 21.

Following: "(1)"

Insert: "(a)"

Strike: "The"

Insert: "Except as provided in subsection (1)(b), the"

3. Page 1.

Following: line 23

Insert: "(b) The fee in subsection (4) does not apply to an operator who has had a wholly nonsmoking place of business prior to [the effective date of this act] or who adopts a wholly nonsmoking place of business after [the effective date of this act]."

Amendment **not** adopted as follows:

Yeas: Bohlinger, Butcher, Cooney, Cromley, Ellingson, Grimes, Harrington, Johnson, Nelson, Schmidt, Stonington, Toole.

Total 12

Nays: Anderson, Bales, Barkus, Black, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tropila, Wheat, Zook, Mr. President.

Total 36

Absent or not voting: None.

Total 0

Excused: Tester, Thomas.

Total 2

HB 758 - Senator Cooney moved **HB 758**, second reading copy, be amended as follows:

1. Title, line 6 through line 7.

Following: "PROVIDING FOR" on line 6

Strike: remainder of line 6 through "FUND" on line 7

Insert: "RETURN OF THE SURCHARGE FEE TO THE LOCAL GOVERNMENT IN WHICH THE GAMBLING MACHINE IS LOCATED"

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2. Page 2, line 11.

Following: "machines."

Strike: "The annual permit surcharge fee must be prorated as provided in subsection (2)(a)."

3. Page 2, line 12.

Following: "must be"

Strike: "deposited"

4. Page 2, line 13 through line 14.

Following: "~~722H~~" on line 13

Strike: remainder of line 13 through "FUND." on line 14

Insert: "returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located. The surcharge fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury."

Amendment **not** adopted as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cooney, Cromley, Ellingson, Johnson, Nelson, Toole.

Total 10

Nays: Bales, Barkus, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tropila, Wheat, Zook, Mr. President.

Total 38

Absent or not voting: None.

Total 0

Excused: Tester, Thomas.

Total 2

HB 758 - Senator Cooney moved **HB 758**, second reading copy, be amended as follows:

1. Title, line 5 through line 7.

Following: "MACHINES;" on line 5

Strike: remainder of line 5 through "FUND." on line 7

2. Title, line 10.

Following: "SMOKING;"

Strike: "AMENDING SECTION 23-5-612, MCA;"

3. Title, line 11.

Following: "AND"

Insert: "AN"

Following: "APPLICABILITY"

Strike: "DATES"

Insert: "DATE"

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4. Page 1, line 20 through page 2, line 14.

Strike: section 2 in its entirety

Renumber: subsequent sections

5. Page 2, line 26.

Following: "Applicability."

Strike: "(1) [Section 1]"

Insert: "[This act]"

6. Page 2, line 28.

Strike: subsection (2) in its entirety

Amendment **not** adopted as follows:

Yeas: Anderson, Bohlinger, Cobb, Cooney, Cromley, Ellingson, Harrington, Johnson, Schmidt, Stonington, Toole.
Total 11

Nays: Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tropila, Wheat, Zook, Mr. President.
Total 37

Absent or not voting: None.

Total 0

Excused: Tester, Thomas.

Total 2

HB 758 - Senator Cooney moved **HB 758**, second reading copy, be amended as follows:

1. Title, line 10.

Strike: "IMMEDIATE"

2. Title, line 11.

Strike: "AND APPLICABILITY DATES"

3. Page 2, line 24.

Following: "effective"

Strike: "on passage and approval"

Insert: "July 1, 2004"

4. Page 2, line 26 through line 28.

Strike: section 5 in its entirety

Amendment **not** adopted as follows:

Yeas: Anderson, Bohlinger, Cooney, Cromley, Ellingson, Grimes, Harrington, Johnson, Schmidt, Stonington, Toole, Wheat.
Total 12

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Nays: Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tropila, Zook, Mr. President.

Total 36

Absent or not voting: None.

Total 0

Excused: Tester, Thomas.

Total 2

HB 758 - Senator Cooney moved **HB 758**, second reading copy, be amended as follows:

1. Title, line 10.

Following: "SMOKING;"

Insert: "PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;"

Following: "AN"

Strike: "IMMEDIATE"

2. Page 2, line 24.

Following: "date."

Strike: "[This act] is effective on passage and approval."

Insert: "If approved by the electorate, this act is effective January 1, 2005."

3. Page 2, line 28.

Strike: "June 30, 2003"

Insert: "January 1, 2005"

4. Page 2, line 29.

Following: line 28

Insert: "NEW SECTION. **Section 6. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2004 by printing on the ballot the full title of this act and the following:

☐ FOR imposing an annual permit surcharge fee on video gambling machines and exempting establishments with video gambling machines from local government smoking ordinances.

☐ AGAINST imposing an annual permit surcharge fee on video gambling machines and exempting establishments with video gambling machines from local government smoking ordinances."

Amendment **not** adopted follows:

Yeas: Anderson, Bohlinger, Cooney, Cromley, Ellingson, Grimes, Harrington, Johnson, McCarthy, Schmidt, Stonington, Toole.

Total 12

Nays: Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tropila, Wheat, Zook, Mr. President.

Total 36

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Absent or not voting: None.
Total 0

Excused: Tester, Thomas.
Total 2

HB 758 - Senator Anderson moved **HB 758**, second reading copy, be amended as follows:

1. Title, page 1, line 8.

Following: "PREMISES"

Insert: "AND THAT HOLD LIQUOR LICENSES"

2. Title, page 1, line 10.

Following: "SMOKING"

Insert: "IN AREAS PRIMARILY USED FOR LIQUOR SERVICE AND WHERE FOOD SERVICE IS SECONDARY"

3. Page 1, line 15.

Following: "machines"

Insert: "and liquor license"

4. Page 1, line 16.

Following: "law"

Insert: "in areas used primarily for liquor service"

5. Page 1, line 17.

Following: "premises"

Insert: "and that holds a liquor license"

6. Page 1, line 18.

Following: "part 1"

Insert: ", in those areas in the establishment that are primarily used for liquor service and where food service is secondary"

Amendment **not** adopted as follows:

Yeas: Anderson, Bohlinger, Butcher, Cooney, Cromley, DePratu, Ellingson, Elliott, Grimes, Harrington, Johnson, McGee, Nelson, Schmidt, Stapleton, Stonington, Taylor, Toole, Wheat.

Total 19

Nays: Bales, Barkus, Black, Cobb, Cocchiarella, Curtiss, Esp, Gebhardt, Glaser, Hansen, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Story, Tash, Tropila, Zook, Mr. President.

Total 29

Absent or not voting: None.
Total 0

Excused: Tester, Thomas.
Total 2

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Senator Tester present at this time.

HB 758 - Senator Tropila's motion that **HB 758** be concurred passed as follows:

Yeas: Bales, Barkus, Black, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Hansen, Kitzenberg, Laible, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Tropila, Zook, Mr. President.

Total 31

Nays: Anderson, Bohlinger, Butcher, Cobb, Cooney, Cromley, Ellingson, Elliott, Grimes, Harrington, Johnson, Mahlum, McGee, Nelson, Schmidt, Stonington, Toole, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: Thomas.

Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Nelson moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 701, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

Nays: Cobb, Cromley, Grimes, McNutt, Nelson.

Total 5

Absent or not voting: None.

Total 0

Excused: Thomas.

Total 1

MOTIONS

HB 758 - Cooney amendment number 761227 - Senator Grimes moved he be allowed to change his vote on Cooney amendment number 761227, second reading, from nay to ye. Motion carried.

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HB 261 - Senator Stapleton moved **HB 261** be taken from second reading and rereferred to the committee on Finance. Motion carried.

Senator Pease moved to suspend the rules to allow the late drafting and introduction of a resolution pertaining to the Crow Butte holdings, and to urge the Montana delegation in Washington to obtain money that has been obligated to the Northern Cheyenne Tribe, but has not been received. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, April 10, 2003. Motion carried.

Senate adjourned at 3:50 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
April 10, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Elliott, excused. Quorum present.

The presiding officer has authenticated the daily journal for the seventy-sixth legislative day.

SPECIAL ORDERS OF THE DAY

Senator Grimes introduced the Helena Youth Choir, who performed several songs for the Senate.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Zook, Chairman):

4/9/2003

HB 10, be concurred in. Report adopted.

HB 12, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

April 9, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 22** sponsored by Senator Nelson et al., **Senate Bill 24** sponsored by Senator Mangan, **Senate Bill 85** sponsored by Senator Cocchiarella, **Senate Bill 97** sponsored by Senator Story, **Senate Bill 133** sponsored by Senator Zook, **Senate Bill 150** sponsored by Senator Johnson, **Senate Bill 162** sponsored by Senator Story, **Senate Bill 163** sponsored by Senator Mangan, **Senate Bill 197** sponsored by Senator Perry et al., **Senate Bill 213** sponsored by Senator Nelson et al., and **Senate Bill 445** sponsored by Senator Barkus et al. on April 9, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills **concurred in**:

4/9/2003

HB 90, introduced by E. Clark

HB 130, introduced by Lewis

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HB 141, introduced by Lange
HB 203, introduced by A. Olson
HB 213, introduced by Gallik
HB 247, introduced by Harris
HB 256, introduced by Shockley
HB 289, introduced by Newman
HB 292, introduced by Younkin
HB 299, introduced by Peterson
HB 315, introduced by Lawson
HB 317, introduced by Shockley
HB 358, introduced by Lange
HB 385, introduced by Fritz
HB 388, introduced by Lake
HB 435, introduced by Sinrud
HB 437, introduced by A. Olson
HB 453, introduced by Raser
HB 478, introduced by Peterson
HB 480, introduced by Steinbeisser
HB 573, introduced by Parker
HB 584, introduced by Barrett
HB 610, introduced by Bergren
HB 618, introduced by Dickenson
HB 647, introduced by B. Thomas
HB 653, introduced by Lambert
HB 681, introduced by E. Clark
HB 703, introduced by Parker

Senate amendments to House bills **not** concurred in:

4/9/2003

HB 404, introduced by D. Brown
HB 433, introduced by P. Clark
HB 509, introduced by A. Olson
HB 536, introduced by Brueggeman
HB 564, introduced by Lindeen
HB 689, introduced by A. Olson
HB 720, introduced by Hurwitz

HB 404 - The House failed to concur in Senate amendments to **HB 404**, authorized the Speaker to appoint the following **Conference** Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 404**:

4/9/2003

Representative D. Brown, Chair
Representative Gallus
Representative Noennig

HB 433 - The House failed to concur in Senate amendments to **HB 433**, authorized the Speaker to appoint the following **Conference** Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 433**:

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4/9/2003

Representative Younkin, Chair
Representative P. Clark
Representative Lange

HB 509 - The House failed to concur in Senate amendments to **HB 509**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 509**:

4/9/2003

Representative A. Olson, Chair
Representative Matthews
Representative Mendenhall

HB 536 - The House failed to concur in Senate amendments to **HB 536**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 536**:

4/9/2003

Representative Brueggeman, Chair
Representative P. Clark
Representative Noennig

HB 564 - The House failed to concur in Senate amendments to **HB 564**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 564**:

4/9/2003

Representative McKenney, Chair
Representative Lange
Representative Lindeen

HB 689 - The House failed to concur in Senate amendments to **HB 689**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 689**:

4/9/2003

Representative A. Olson, Chair
Representative Ballantyne
Representative Brueggeman

HB 720 - The House failed to concur in Senate amendments to **HB 720**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 720**:

4/9/2003

Representative Hurwitz, Chair
Representative Jent
Representative Younkin

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

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SB 35 - House Amendments - Senator Grimes moved House amendments to **SB 35** be concurred in. Motion carried unanimously.

SB 95 - House Amendments - Senator Stonington moved House amendments to **SB 95** be concurred in. Motion carried unanimously.

SB 194 - House Amendments - Senator Tash moved House amendments to **SB 194** be concurred in. Motion carried with Senator Hansen voting nay.

SB 230 - House Amendments - Senator Cromley moved House amendments to **SB 230** be concurred in. Motion carried unanimously.

SB 231 - House Amendments - Senator Cromley moved House amendments to **SB 231** be concurred in. Motion carried unanimously.

SB 232 - House Amendments - Senator Mahlum moved House amendments to **SB 232** be concurred in. Motion carried unanimously.

SB 244 - House Amendments - Senator Story moved House amendments to **SB 244** be concurred in. Motion carried unanimously.

SB 247 - House Amendments - Senator Cobb moved consideration of House amendments to **SB 247** be passed for the day. Motion carried unanimously.

SB 263 - House Amendments - Senator Grimes moved House amendments to **SB 263** be concurred in. Motion carried unanimously.

SB 270 - House Amendments - Senator Harrington moved House amendments to **SB 270** be concurred in. Motion carried with Senators Anderson, Esp, Gebhardt and Grimes voting nay.

SB 275 - House Amendments - Senator Laible moved House amendments to **SB 275** be concurred in. Motion carried unanimously.

SB 282 - House Amendments - Senator Squires moved House amendments to **SB 282** be concurred in. Motion carried unanimously.

SB 288 - House Amendments - Senator Mangan moved House amendments to **SB 288** be concurred in. Motion carried unanimously.

SB 321 - House Amendments - Senator Laible moved House amendments to **SB 321** be concurred in. Motion carried unanimously.

*****SB 326 - House Amendments** - Senator McGee moved House amendments to **SB 326** be **not** concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook.

Total 29

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Nays: Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Kitzenberg, Mangan, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 19

Absent or not voting: None.

Total 0

Excused: Elliott, Mr. President.

Total 2

SB 344 - House Amendments - Senator Laible moved House amendments to **SB 344** be concurred in. Motion carried unanimously.

SB 401 - House Amendments - Senator Wheat moved House amendments to **SB 401** be concurred in. Motion carried unanimously.

SB 423 - House Amendments - Senator Black moved House amendments to **SB 423** be concurred in. Motion carried unanimously.

SB 441 - House Amendments - Senator D. Ryan moved House amendments to **SB 441** be concurred in. Motion carried unanimously.

SB 447 - House Amendments - Senator Grimes moved House amendments to **SB 447** be concurred in. Motion carried unanimously.

SB 363 - House Amendments - Senator McNutt moved House amendments to **SB 363** be concurred in. Motion carried with Senator O'Neil voting nay.

SB 421 - Senator Grimes moved **SB 421**, second reading copy, be amended as follows:

1. Title, line 5.

Strike: "TEMPORARILY"

Following: "AMENDING THE"

Insert: "NAME AND"

Strike: "BOARD" on line 5 through "ELIMINATING THE" on line 6

2. Title, line 7.

Following: "AMENDING"

Strike: line 7 through "REPEALING"

3. Title, line 8.

Strike: "AND A TERMINATION DATE"

4. Page 2, line 14 through line 19.

Strike: subsections (1) and (2) in their entirety

5. Page 2, line 20.

Strike: "(3)"

Strike: "office" through "treatment"

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Insert: "Montana board of prevention"

6. Page 2, line 21.

Strike: "(a)"

Insert: "(1)"

7. Page 2, line 24.

Strike: "(b)"

Strike: "(2)"

8. Page 2, line 27.

Strike: "(i)"

Insert: "(a)"

Renumber: subsequent subsections

9. Page 2, line 7 through line 8.

Strike: subsection (4) in its entirety

10. Page 3, line 10 through line 26.

Strike: section 3 through section 4 in their entirety

Insert: "**Section 3.** Section 2-15-225, MCA, is amended to read:

"2-15-225. Interagency coordinating council for state Montana office of drug control and substance abuse prevention and treatment -- board of prevention programs. (1) There is an interagency coordinating council for state Montana office of drug control and substance abuse prevention and treatment. The office is represented by the board of prevention programs consisting of the following members:

(a) the governor provided for in 2-15-103 who shall be the presiding officer;

~~(a)(b)~~ the attorney general provided for in 2-15-501;

~~(b)~~ the director of the department of public health and human services provided for in 2-15-2201;

(c) the superintendent of public instruction provided for in 2-15-701; and

~~(d)~~ the presiding officer of the Montana children's trust fund board;

~~(e)(d)~~ two persons three community or tribal representatives appointed by the governor who have experiences related to the private or nonprofit provision of drug control and substance abuse prevention and treatment programs and services;

~~(f)~~ the administrator of the board of crime control provided for in 2-15-2006;

~~(g)~~ the commissioner of labor and industry provided for in 2-15-1701;

~~(h)~~ the director of the department of corrections provided for in 2-15-2301;

~~(i)~~ the state coordinator of Indian affairs provided for in 2-15-217;

~~(j)~~ the adjutant general of the department of military affairs provided for in 2-15-1202;

~~(k)~~ the director of the department of transportation provided for in 2-15-2501;

~~(l)~~ the commissioner of higher education provided for in 2-15-1506; and

~~(m)~~ the designated representative of a state agency desiring to participate who is accepted as a member by a majority of the current coordinating council members.

(2) Except for the initial appointments, each appointed board member shall serve a 4-year term and may be reappointed for one additional term. The governor shall appoint members to staggered terms with one member appointed to an initial term of 2 years, one member appointed to an initial term of 3 years, one member appointed to an initial term of 4 years. The members shall serve on the board without compensation.

~~(2)(3)~~ The coordinating council board shall perform the following duties:

~~(a)~~ develop, through interagency planning efforts, a comprehensive and coordinated prevention program delivery system that will strengthen the healthy development, well-being, and safety of children, families, individuals,

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and communities;

~~_____ (b) develop appropriate interagency prevention programs and services that address the problems of at-risk children and families and that can be provided in a flexible manner to meet the needs of those children and families;~~

~~_____ (c) study various financing options for prevention programs and services;~~

~~_____ (d) ensure that a balanced and comprehensive range of prevention services is available to children and families with specific or multiagency needs;~~

(a) support a comprehensive and coordinated drug control and substance abuse prevention and treatment system that will strengthen Montana children, families, and communities;

(b) provide leadership and advocacy for a balanced and comprehensive range of drug control and substance abuse prevention and treatment efforts with the public and state, local, and tribal policymakers;

~~(c)~~ (c) assist in development of cooperative partnerships among state agencies and community-based public and private providers of drug control and substance abuse prevention and treatment programs;

~~(f) prepare and present to the legislature and to the appropriate standing and interim legislative committees a unified budget for state prevention programs, which must be published in the governor's executive budget; and~~

~~(g)~~ (d) develop, maintain, and implement establish goals and benchmarks for state prevention programs to meet the purposes provided in [sections 1 and 2]. As used in this subsection, "benchmark" means a specified reference point in the future that is used to measure the state of affairs at that point in time and to determine progress toward or the attainment of an ultimate goal, which is an outcome reflecting the desired state of affairs.

~~(3)~~ (4) The coordinating council board shall cooperate with and report to any standing or interim legislative committee that is assigned to study the policies and funding for drug control and substance abuse prevention and treatment programs or other state programs and policies related to children and families, and shall present a biennial report of findings and recommendations to the legislature as provided in 5-11-210.

~~(4) The coordinating council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.~~

(5) The coordinating council board is attached for administrative purposes only to the governor's office, which may assist the council board by providing staff and budgetary, administrative, and clerical services that the council board or its presiding officer requests.

(6) Staffing and other resources may be provided to the coordinating council board only from state and nonstate resources donated to the council board and from direct appropriations by each legislature.""

Insert: "NEW SECTION. Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa."

11. Page 3, line 29.

Strike: "Title 44, chapter 4, part 3" in both places

Insert: "Title 2, chapter 15, part 2" in both places

12. Page 4, line 4.

Strike: section 7 in its entirety

Amendment **adopted** unanimously.

SB 421 - Senator Grimes moved **SB 421**, as amended, do pass. Motion carried unanimously.

SB 485 - Senator Cobb moved consideration of **SB 485** be passed for the day. Motion carried.

SB 490 - Senator Esp moved **SB 490**, second reading copy, be amended as follows:

1. Page 8, line 22.

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Following: "instruction."

Insert: "(1)"

2. Page 8, line 24.

Strike: "(1)"

Insert: "(a)"

3. Page 8, line 25.

Strike: "(2)"

Insert: "(b)"

4. Page 11, line 16.

Strike: "(3)"

Insert: "(c)"

5. Page 11, line 30.

Following: "administration.""

Insert: "(2) If Senate Bill No. 19 and [this act] are both passed and approved, then [section 4] of Senate Bill No. 19, amending 3-5-902, is void."

Amendment **adopted** unanimously.

SB 490 - Senator Esp moved **SB 490**, as amended, do pass. Motion carried unanimously.

HB 5 - Senator Tester moved **HB 5** be concurred in. Motion carried with Senator Cocchiarella voting nay.

HB 9 - Senator Tropila moved **HB 9** be concurred in. Motion carried unanimously.

HB 100 - Senator Hansen moved **HB 100** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Esp, Mahlum.

Total 2

Absent or not voting: Bales, Glaser.

Total 2

Excused: Elliott.

Total 1

HB 249 - Senator Shea moved **HB 249** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted

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unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 47, as amended by Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Anderson.
Total 1

Absent or not voting: None.
Total 0

Excused: Elliott.
Total 1

HB 56, as amended by Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Elliott.
Total 1

HB 403, as amended by Conference Committee Report No. 1, adopted as follows:

Yeas: Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.
Total 42

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Nays: Anderson, Bales, Esp, Johnson, O'Neil, Stapleton, Zook.
Total 7

Absent or not voting: None.
Total 0

Excused: Elliott.
Total 1

SB 13, as amended by the House, passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Bales, Gebhardt, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: Elliott.
Total 1

SB 115, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: McGee, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Elliott.
Total 1

SB 111, as amended by the House, passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 47

Nays: Bales, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: Elliott.

Total 1

HB 758 concurred in as follows:

Yeas: Bales, Barkus, Black, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Hansen, Kitzenberg, Laible, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 32

Nays: Anderson, Bohlinger, Butcher, Cobb, Cooney, Cromley, Ellingson, Elliott, Grimes, Harrington, Johnson, Mahlum, McGee, Nelson, Schmidt, Stonington, Toole, Wheat.

Total 18

Paired: Sprague, Aye; Elliott, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

TAXATION (DePratu, Chairman):

4/10/2003

HB 559, be amended as follows:

1. Title, page 1, line 8.

Following: "DECAL;"

Insert: "SIMPLIFYING THE FEES IN LIEU OF TAX IMPOSED ON BOATS AND CERTAIN OTHER WATERCRAFT, SNOWMOBILES, OFF-HIGHWAY VEHICLES, TRAVEL TRAILERS AND CERTAIN OTHER TRAILERS, AND MOTORCYCLES AND QUADRICYCLES; CHANGING FROM ANNUAL TO ONE-TIME-ONLY THE REGISTRATION, LICENSING, AND IMPOSITION OF THE FEE IN LIEU OF TAX AND CERTAIN OTHER FEES PAYABLE ON CERTAIN BOATS AND OTHER WATERCRAFT, SNOWMOBILES, OFF-HIGHWAY VEHICLES, TRAVEL TRAILERS AND CERTAIN OTHER TRAILERS, AND MOTORCYCLES AND QUADRICYCLES; ELIMINATING THE FEE IN LIEU OF TAX ON CERTAIN WATERCRAFT; ELIMINATING THE REGISTRATION OF AND VARIOUS FEES PAYABLE ON CAMPERS; REQUIRING THE PERMANENT REGISTRATION OF A LIGHT VEHICLE THAT IS 11 YEARS OLD OR OLDER OTHER THAN VEHICLES WITH COLLEGIATE OR SPECIALTY LICENSE PLATES; INCREASING FEES FOR ANNUALLY REGISTERED MOTOR VEHICLES; REVISING THE FEES APPLICABLE TO A PERMANENT REGISTRATION; REVISING THE ALLOCATION OF THE FEES

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FOR PERMANENTLY REGISTERED VEHICLES;"

2. Title, page 1, line 9.

Strike: "23-2-520,"

Insert: "23-2-516,23-2-517, 23-2-518, 23-2-519,"

Strike: "23-2-618,"

3. Title, page 1, line 10.

Strike "23-2-620,"

Insert: "23-2-626,"

Following: "23-2-642,"

Insert: "23-2-803, 23-2-804, 23-2-807, 23-2-809, 23-2-817, 61-1-129, 61-3-303,"

Following: "61-3-312,"

Insert: "61-3-313, 61-3-315,"

Strike: "61-3-519,"

Insert: "61-3-521, 61-3-523,"

4. Title, page 1, line 11.

Strike: "61-3-524, 61-3-525,"

Following: "61-3-526,"

Strike: "AND"

Insert: "61-3-527, 61-3-530,"

Following: "61-3-535,"

Insert: "61-3-560, 61-3-561, 61-3-562, AND 61-3-570,"

Following: "MCA;"

Insert: "REPEALING SECTIONS 23-2-520, 23-2-618, 23-2-620, 23-2-810, 61-3-519, 61-3-524, 61-3-525, AND 61-3-606, MCA;"

5. Page 2, line 1.

Strike: "fiscal year 2002 and for"

Strike: "succeeding"

6. Page 2, line 6.

Following: "GVW"

Insert: "that is"

7. Page 2, line 7.

Following: "part 3"

Insert: ", and beginning in fiscal year 2007, \$4 for each permanently registered light vehicle"

8. Page 2, line 12.

Following: "\$1"

Insert: "in fiscal year 2006 and, in each subsequent year, \$3"

Strike: "subject to payment of"

Insert: "for which"

Following: "tax"

Insert: "is paid"

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9. Page 2, line 14.

Following: "(ii)"

Insert: "for vehicles registered or reregistered pursuant to 61-3-321:

(A)"

Following: "each"

Insert: "registered"

Strike: "vehicles"

Insert: "vehicle"

10. Page 2, lines 15 and 16.

Following: "ton," on line 15

Insert: "and motor home; and

(B) \$1.50 in fiscal year 2006 and, in each subsequent year, \$3 for each"

Following: "motorcycle" on line 15

Strike: ", "

Insert: "and"

Strike: ", and motor" on line 15 through "61-3-321" on line 16

Insert: "; and

(C) beginning in fiscal year 2007, \$6 for each permanently registered light vehicle"

11. Page 2, line 18.

Following: "\$2.50"

Insert: "in fiscal year 2006 and, in each subsequent year, \$14.50"

12. Page 2, line 21.

Following: "\$5"

Insert: "in fiscal year 2006 and, in each subsequent year, \$19"

Strike: "\$2.50"

Insert: "50% of the amount"

13. Page 2, line 22.

Strike: "\$2.50"

Insert: "50% of the amount"

14. Page 2, line 25.

Following: "\$5"

Insert: "in fiscal year 2006 and, in each subsequent year, \$13.25"

15. Page 2, line 29.

Following: "\$3.50"

Insert: "in fiscal year 2006 and, in each subsequent year, \$8"

16. Page 2, line 30.

Strike: "camper,"

Strike: "or 61-3-524"

17. Page 3, line 5.

Following: "(10)(h)"

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Insert: "and, beginning in fiscal year 2007, 20 cents for each light vehicle subject to registration or reregistration pursuant to 61-3-321"

18. Page 3, line 7.

Following: "cents"

Insert: "for fiscal year 2006 and 50 cents in each subsequent year"

Following: "than"

Insert: ": (i)"

19. Page 3.

Following: line 8

Insert: "(ii) vehicles registered under 61-3-527 and 61-3-562; and"

20. Page 3, line 9.

Following: "each"

Insert: "registered"

Following: "vehicle"

Insert: "and, beginning in fiscal year 2007, \$1.25 for each permanently registered vehicle"

21. Page 3, line 17.

Following: "(3)."

Insert: "The department of justice shall provide a separate count of vehicles that are permanently registered pursuant to 61-3-562. A permanently registered vehicle may be included in vehicle counts only in the year in which the vehicle is registered or reregistered."

22. Page 3, line 20.

Following: "."

Insert: "Vehicles that are permanently registered may be included in vehicle counts only in the year in which the vehicles are registered by new owners."

23. Page 3, line 25.

Strike: "current and back"

24. Page 3, line 26.

Strike: "boat"

Insert: "motorboat, sailboat, or personal watercraft described in 23-2-517"

25. Page 3, line 27.

Strike: "and the immediately previous year"

26. Page 3, line 30.

Strike: "and the immediately previous year"

27. Page 4, line 2.

Following: "(3)"

Insert: "(a)"

Following: "15-1-101"

Insert: "and except as provided in subsection (3)(b) of this section"

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28. Page 4, line 3.

Strike: "or assessed"

29. Page 4.

Following: line 5

Insert: "(b) The vehicle registration fees or fee in lieu of tax imposed against a motor vehicle described in 61-3-303(6) must be paid before a motor vehicle may be registered pursuant to 61-3-303."

30. Page 4, line 6.

Strike: "through"

Insert: "and"

Following: "(3)"

Insert: "(a)"

31. Page 4, line 12.

Strike: "annually"

32. Page 4, line 14.

Following: "required"

Insert: "by the department of justice"

33. Page 5, line 15.

Strike: "a"

Insert: "each"

34. Page 9, line 1.

Following: "\$3.50"

Insert: "in calendar year 2004 and, in each subsequent year, \$15.50"

35. Page 9, line 7.

Following: "required"

Insert: "under 23-2-517"

36. Page 9, line 8.

Strike: "for the current year of certification"

Following: "certification or"

Insert: ", if applicable,"

37. Page 9, line 17.

Strike: "for a period not to exceed 1 year"

38. Page 9, line 18 through line 22.

Strike: "The" on line 18 through "part." on line 22

Renumber: subsequent subsections

39. Page 11, line 8.

Strike: "the"

Insert: "a"

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40. Page 11, line 21.

Strike: "(9)"

Insert: "(8)"

41. Page 11, line 26.

Strike: "(9)"

Insert: "(8)"

42. Page 12, line 6.

Strike: "the dealer maintains"

Following: "records"

Insert: "are maintained"

Following: "~~where he~~"

Insert: "where the dealer"

43. Page 13, line 10.

Following: "and"

Insert: ", if applicable, all"

44. Page 13, line 12.

Following: "(2)"

Insert: "(a)"

45. Page 13, line 13.

Following: "~~shall~~"

Insert: "each year"

Following: "."

Insert: "(b)"

46. Page 13, lines 14 through 15.

Strike: "and have" on line 14 through "decal" on line 15

47. Page 13.

Following: line 15

Insert: "(c) The registration decals issued for a motorboat or sailboat do not expire while the motorboat or sailboat remains in the same ownership."

48. Page 13, lines 19 through 22.

Strike: section 11 in its entirety

Insert: "**Section 11.** Section 23-2-516, MCA, is amended to read:

"23-2-516. Fee in lieu of tax for motorboats 10 feet in length or longer, sailboats 12 feet in length or longer, personal watercraft, ~~motorized canoes, motorized rubber rafts, and motorized pontoons.~~ (1) (a) There is a fee in lieu of property tax as prescribed in 23-2-517 imposed on motorboats 10 feet in length or longer, sailboats 12 feet in length or longer, personal watercraft, ~~motorized canoes, motorized rubber rafts, and motorized pontoons.~~

(b) The fee is in addition to the ~~annual~~ fee required by 23-2-512 for filing of the application for a certificate of number ~~and is a one-time fee.~~

(2) The fee imposed by subsection (1) need not be paid by a dealer for motorboats, sailboats, personal watercraft, ~~motorized canoes, motorized rubber rafts,~~ or motorized pontoons that constitute inventory of the dealership."

Insert: "**Section 12.** Section 23-2-517, MCA, is amended to read:

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"23-2-517. Fees for motorboats, sailboats, personal watercraft, motorized canoes, motorized rubber rafts, and motorized pontoons. (1) The owner of a motorboat 10 feet in length or longer, ~~or a sailboat 12 feet in length or longer, a personal watercraft, or a motorized pontoon~~ shall pay a fee ~~based on the length and age of the motorboat or sailboat~~ as follows:

(a) ~~The~~ Regardless of the vessel's age, the fee schedule for a motorboat at least 10 feet in length but less than ~~14~~ 16 feet in length, ~~or a sailboat at least 12 feet in length but less than 14~~ 16 feet in length, ~~a personal watercraft less than 16 feet in length, or a motorized pontoon less than 16 feet in length~~ is as follows:

~~_____~~ (i) for a motorboat or sailboat less than 5 years of age, \$7.50;
~~_____~~ (ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$5.65; and
~~_____~~ (iii) for a motorboat or sailboat 10 years of age or older, \$3.75 \$25 in calendar year 2004 and, in each subsequent year, \$50 and, except as provided in subsection (2), is a one-time fee.

(b) ~~The~~ Regardless of the vessel's age, the fee schedule for a motorboat or sailboat at least ~~14~~ 16 feet in length but less than ~~16~~ 19 feet in length, ~~a personal watercraft 16 feet in length or longer, or a motorized pontoon 16 feet in length or longer~~ is as follows:

~~_____~~ (i) for a motorboat or sailboat less than 5 years of age, \$15;
~~_____~~ (ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$11.25; and
~~_____~~ (iii) for a motorboat or sailboat 10 years of age or older, \$7.50;
~~_____~~ (c) The fee schedule for a motorboat or sailboat at least 16 feet in length but less than 17 feet in length is as follows:

~~_____~~ (i) for a motorboat or sailboat less than 5 years of age, \$32;
~~_____~~ (ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$24; and
~~_____~~ (iii) for a motorboat or sailboat 10 years of age or older, \$16;
~~_____~~ (d) The fee schedule for a motorboat or sailboat at least 17 feet in length but less than 19 feet in length is as follows:

~~_____~~ (i) for a motorboat or sailboat less than 5 years of age, \$3 a foot or fraction of a foot;
~~_____~~ (ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$2.25 a foot or fraction of a foot; and
~~_____~~ (iii) for a motorboat or sailboat 10 years of age or older, \$1.50 a foot or fraction of a foot \$55 in calendar year 2004 and, in each subsequent year, \$110 and, except as provided in subsection (2), is a one-time fee.

~~(e)~~(c) The fee schedule for a motorboat or sailboat 19 feet in length or longer is as follows:

~~_____~~ (i) for a motorboat or sailboat less than 5 years of age, \$4 a foot or fraction of a foot;
~~_____~~ (ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$3 a foot or fraction of a foot; and
~~_____~~ (iii) for a motorboat or sailboat 10 years of age or older, \$2 a foot or fraction of a foot \$140 in calendar year 2004 and, in each subsequent year, \$280.

(2) The owner of a personal watercraft shall pay a fee based on the age of the watercraft as follows:

~~_____~~ (a) The fee for a personal watercraft less than 4 years of age is \$22.

~~_____~~ (b) The fee for a personal watercraft 4 years of age or older is \$15.

~~_____~~ (3) (a) Except as provided in subsection (3)(b) ~~(2)(b)~~, the age of a motorboat, sailboat, or personal watercraft is determined by subtracting the manufacturer's designated model year from the current calendar year.

~~_____~~ (b) If the purchase year of a motorboat, sailboat, or personal watercraft precedes the designated model year of the motorboat, sailboat, or personal watercraft and the motorboat, sailboat, or personal watercraft is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.

~~_____~~ (4) The fee for a motorized canoe or a motorized rubber raft is \$7.50, regardless of its length or age.

~~_____~~ (5) The fee for a motorized pontoon is \$20, regardless of its length or age.

~~(2)~~ Whenever a transfer of ownership of a vessel described in subsection (1) occurs, the one-time fee required under subsection (1) must be paid by the new owner. ""

Insert: "Section 13. Section 23-2-518, MCA, is amended to read:

"23-2-518. (Temporary) Disposition of fees in lieu of tax. The county treasurer shall transfer all fees in lieu

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of tax collected on motorboats 10 feet in length or longer, sailboats 12 feet in length or longer, personal watercraft, ~~motorized canoes, motorized rubber rafts~~, and motorized pontoons pursuant to 23-2-516 and 23-2-517 to the state general fund. (Terminates June 30, 2006--secs. 2, 3, Ch. 95, L. 2001.)

23-2-518. (Effective July 1, 2006) Disposition of fees in lieu of tax. The county treasurer shall transfer all fees in lieu of tax collected on motorboats 10 feet in length or longer, sailboats 12 feet in length or longer, personal watercraft, ~~motorized canoes, motorized rubber rafts~~, and motorized pontoons pursuant to 23-2-516 and 23-2-517 to the state general fund.""

Insert: "Section 14. Section 23-2-519, MCA, is amended to read:

"23-2-519. (Temporary) Penalty -- disposition. (1) Failure to pay the fee in lieu of tax as provided for in 23-2-517 is a misdemeanor, punishable by a fine equal to four times the fee in lieu of tax that is due on the motorboat, sailboat, personal watercraft, ~~motorized canoe, motorized rubber raft~~, or motorized pontoon for the current year of registration.

(2) All fines collected pursuant to subsection (1) must be distributed in the following ratio:

(a) 50% to the general fund of the county in which the motorboat, sailboat, personal watercraft, ~~motorized canoe, motorized rubber raft~~, or motorized pontoon is issued a certification number; and

(b) 50% to the motorboat account of the state special revenue fund for use by the department in the enforcement of this part. (Terminates June 30, 2006--sec. 4, Ch. 95, L. 2001.)

23-2-519. (Effective July 1, 2006) Penalty -- disposition. (1) Failure to pay the fee in lieu of tax as provided for in 23-2-517 is a misdemeanor, punishable by a fine equal to five times the fee in lieu of tax that is due on the motorboat, sailboat, personal watercraft, ~~motorized canoe, motorized rubber raft~~, or motorized pontoon for the current year of registration.

(2) All fines collected pursuant to subsection (1) must be distributed in the following ratio:

(a) 50% to the general fund of the county in which the motorboat, sailboat, personal watercraft, ~~motorized canoe, motorized rubber raft~~, or motorized pontoon is issued a certification number; and

(b) 50% to the motorboat account of the state special revenue fund for use by the department in the enforcement of this part.""

Renumber: subsequent sections

49. Page 13, line 30.

Strike: "for a given registration year"

Insert: "due in order for the snowmobile to be validly registered"

50. Page 14, line 3 through line 4.

Strike: ", as" on line 3 through "(7)" on line 4

51. Page 14, line 5.

Strike: "means a"

Insert: "includes each"

52. Page 14, line 7.

Strike: "means a"

Insert: "includes each"

53. Page 15, line 3.

Following: "in the"

Insert: "state"

54. Page 15, line 8.

Strike: "for the current year"

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55. Page 17, line 2.

Following: "\$6.50"

Insert: "in calendar year 2004 and, in each subsequent year, \$20.50"

56. Page 17, line 6 through line 7.

Strike: "for reregistration"

57. Page 17, line 9.

Following: "justice"

Strike: "and"

Insert: ". Each year the decals must be"

58. Page 17, line 12 through line 13.

Strike: "for" on line 12 through "year" on line 13

59. Page 17, line 26 through page 18, line 6.

Strike: sections 17 and 18 in their entirety

Insert: "Section 20. Section 23-2-626, MCA, is amended to read:

"23-2-626. Fee One-time fee in lieu of tax on snowmobiles -- exception. (1) There Except as provided in subsections (3) and (4), there is a one-time fee in lieu of tax on snowmobiles of \$20 in calendar year 2004 and, in each subsequent year, \$40.

~~(2) The fee for a snowmobile less than 4 years old is \$22. In all other cases the fee is \$15.~~

~~(3) (a) Except as provided in subsection (3)(b), the age of a snowmobile is determined by subtracting the manufacturer's designated model year from the current calendar year.~~

~~———— (b) If the purchase year of a snowmobile precedes the designated model year of the snowmobile and the snowmobile is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.~~

(2) Except as provided in subsection (3), whenever a transfer of ownership of a snowmobile occurs, the fee required under subsection (1) must be paid by the new owner.

~~(4)(3) The fee need not be paid by a dealer for snowmobiles that constitute inventory of the dealership.~~

(4) A snowmobile that is licensed by a Montana business and that is owned exclusively for the purpose of daily rental to customers is assessed:

(a) a 1-year fee in lieu of tax of \$20 in the first year of registration; and

(b) if the business reregisters the snowmobile for a second year, the fee in lieu of tax imposed in subsection (1)."

Renumber: subsequent sections

60. Page 18, line 22.

Insert: "Section 22. Section 23-2-803, MCA, is amended to read:

"23-2-803. Fee One-time fee in lieu of tax on off-highway vehicles -- exception -- disposition of fees. (1) There Except as provided in subsection (2), there is a one-time fee in lieu of tax on off-highway vehicles, other than off-highway vehicles constituting the inventory of a dealership licensed under 23-2-818, to be paid to the county treasurer of the county in which the owner of the off-highway vehicle resides.

(a) The one-time fee for an off-highway vehicle less than 3 years old is \$19. In all other cases the fee is \$9 is \$20 in calendar year 2004 and, in each subsequent year, \$40.

~~(b) Except as provided in subsection (1)(c), the age of an off-highway vehicle is determined by subtracting the manufacturer's designated model year from the current calendar year.~~

~~———— (c) If the purchase year of an off-highway vehicle precedes the designated model year of the off-highway vehicle and the off-highway vehicle is originally titled in Montana, then the purchase year is considered the model year~~

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for the purposes of calculating the fee in lieu of tax.

(2) Whenever a transfer of ownership of an off-highway vehicle occurs, the one-time fee required under subsection (1) must be paid by the new owner.

~~(2)(3)~~ The county treasurer shall transfer all fees in lieu of tax collected on off-highway vehicles pursuant to this section to the state general fund.""

Insert: "Section 23. Section 23-2-804, MCA, is amended to read:

"23-2-804. Decal required. (1) Except as provided in 23-2-802, an off-highway vehicle may not be operated by ~~any~~ a person for off-road recreation on public lands in Montana unless there is displayed in a conspicuous place a decal, in a form prescribed by the department of justice and issued by the county treasurer, as visual proof that the following fees have been paid ~~for the current year~~:

(a) (i) the fee in lieu of tax provided for in 23-2-803; and

(ii) the registration fee provided for in 61-3-321; or

(b) when the vehicle will be used as provided in this section, the registration and taxation fees for motorcycles and quadricycles subject to licensure under 61-3-321, as evidenced by presentation of an owner's certificate of registration and payment receipt.

(2) The decal must be serially numbered ~~and have the expiration date of December 31 of the appropriate year printed on the decal.~~""

Insert: "Section 24. Section 23-2-807, MCA, is amended to read:

"23-2-807. Penalty -- disposition. (1) The failure to display a ~~current~~ valid decal indicating that the fee in lieu of tax, registration fees, decal fees, and, when applicable, taxes on licensed vehicles have been paid on the off-highway vehicle ~~for the current year~~, as provided in 23-2-804, is a misdemeanor punishable by a fine of \$50.

(2) All fines collected under this section must be transmitted to the department of revenue for deposit in the state general fund.""

Insert: "Section 25. Section 23-2-809, MCA, is amended to read:

"23-2-809. Duplicate decal. If a decal required in 23-2-804 indicating that the off-highway vehicle fee has been paid ~~for the current year~~ is lost, mutilated, or becomes illegible, the person to whom it was issued shall immediately apply for and obtain a duplicate decal upon payment of a fee of \$5 to the county treasurer, who shall distribute the fee as provided in ~~23-2-804(3)~~ 23-2-803.""

Insert: "Section 26. Section 23-2-817, MCA, is amended to read:

"23-2-817. Registration fee -- application and issuance -- disposition. (1) Each off-highway vehicle is subject to ~~an annual~~ a registration fee of \$2.

(2) The county treasurer shall collect the ~~annual~~ fee when the fee in lieu of tax is collected.

(3) Application for registration must be made to the county treasurer of the county in which the owner resides, on a form furnished by the department of justice for that purpose. The application must contain:

(a) the name and home mailing address of the owner;

(b) the certificate of ownership number;

(c) the name of the manufacturer of the off-highway vehicle;

(d) the model number or name;

(e) the year of manufacture;

(f) a statement evidencing payment of the fee in lieu of property tax; and

(g) ~~such~~ other information ~~as~~ that the department of justice may require.

(4) If the off-highway vehicle was previously registered, the application must be accompanied by the registration certificate for the most recent year in which it was registered. Upon payment of the registration fee, the county treasurer shall sign the application and issue a registration receipt, ~~which must contain~~ containing the information considered necessary by the department of justice and a listing of the fees paid. The owner shall retain possession of the registration receipt until it is surrendered to the county treasurer ~~for reregistration~~ or to a purchaser or subsequent owner pursuant to a transfer of ownership.

(5) All registration fees collected must be forwarded to the department of justice and deposited in the state general fund.""

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Insert: "Section 27. Section 61-1-129, MCA, is amended to read:

"61-1-129. Camper. (1) The term "camper" as used in 61-1-102, ~~61-3-524, and 61-3-525~~ includes but is not limited to truck camper, chassis-mounted camper, cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(2) The term does not include a truck canopy cover or topper.""

Insert: "Section 28. Section 61-3-303, MCA, is amended to read:

"61-3-303. Application for registration. (1) ~~Each~~ An owner of a motor vehicle operated or driven upon the public highways of this state shall for each motor vehicle owned, except as otherwise provided in this section, file in the office of the county treasurer in the county where the owner permanently resides at the time of making the application or, if the vehicle is owned by a corporation or used primarily for commercial purposes, in the taxing jurisdiction of the county where the vehicle is permanently assigned an application for registration or reregistration on a form prescribed by the department. The application must contain:

(a) the name and address of the owner, giving the county, school district, and town or city within whose corporate limits the motor vehicle is taxable, if taxable, or within whose corporate limits the owner's residence is located if the motor vehicle is not taxable;

(b) the name and address of the holder of any security interest in the motor vehicle;

(c) a description of the motor vehicle, including make, year model, engine or serial number, manufacturer's model or letter, gross weight, declared weight on all trucks for which the manufacturer's rated capacity is 1 ton or less, ~~and~~ type of body, and; if a truck, the manufacturer's rated capacity;

(d) the declared weight on all trailers operating intrastate, except travel trailers or trailers and semitrailers registered as provided in 61-3-711 through 61-3-733;

(e) a space in which the person registering the vehicle may indicate the person's desire to donate \$1 or more to promote awareness and education efforts for procurement of organ and tissue donations for anatomical gifts; and

(f) other information that the department may require.

(2) A person who files an application for registration or reregistration of a motor vehicle, except of a mobile home or a manufactured home as those terms are defined in 15-1-101(1), shall upon the filing of the application pay to the county treasurer:

(a) the registration fee, as provided in 61-3-311 and 61-3-321 or 61-3-456;

(b) except as provided in 61-3-456 or unless it has been previously paid, the motor vehicle fees in lieu of tax or registration fees under 61-3-560 through 61-3-562 imposed against the vehicle for the current year of registration and the immediately previous year; and

(c) a donation of \$1 or more if the person has indicated on the application that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts.

(3) The application may not be accepted by the county treasurer unless the payments required by subsection (2) accompany the application. Except as provided in 61-3-560 through 61-3-562, the department may not assess or impose and the county treasurer may not collect taxes or fees for a period other than:

(a) the current year; and

(b) except as provided in subsection (6), the immediately ~~previous~~ preceding year if the vehicle was not registered or operated on the highways of the state, regardless of the period of time since the vehicle was previously registered or operated.

(4) The department may make full and complete investigation of the status of the vehicle. An applicant for registration or reregistration shall submit proof from appropriate records of the proper county at the request of the department.

(5) Revenue that accrues from the voluntary donation provided in subsection (2)(c) must be forwarded by the respective county treasurer for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(6) (a) Except as provided in subsection (6)(b), the fees in lieu of tax, taxes, and fees imposed on or collected

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from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, pole trailer, or semitrailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the vehicle is owned by the same person who registered the vehicle. Once registered, a vehicle described in this subsection (6)(a) is registered permanently unless ownership of the vehicle is transferred.

(b) Whenever ownership of a vehicle described in subsection (6)(a) is transferred, the new owner is required to register the vehicle as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees."

Renumber: subsequent sections

61. Page 18, line 24.

Following: "application"

Insert: "(1)(a)"

Strike: "Registration"

Insert: "Except as provided in subsection (1)(b), the registration of a vehicle"

62. Page 18, line 25.

Following: "annually."

Insert: "(b) Once registered, a vehicle described in 61-3-303(6)(a) is registered permanently unless ownership of the vehicle is transferred. A transfer of ownership of a vehicle described in 61-3-303(6)(a) requires the new owner to register the vehicle as provided in this title.

(2)"

63. Page 18, line 26.

Strike: the first "and"

Insert: "61-3-560, 61-3-562,"

Following: "61-3-721"

Insert: ", and subsection (1)(b) of this section"

64. Page 18, line 27.

Following: "year."

Insert: "(3)"

65. Page 19, line 2.

Following: "in"

Insert: "61-3-311(2) and (3),"

66. Page 19, line 3.

Following: "61-3-526,"

Insert: "61-3-560, 61-3-562,"

67. Page 19, line 11.

Insert: "**Section 31.** Section 61-3-313, MCA, is amended to read:

"61-3-313. Vehicles subject to staggered registration. For purposes of 61-3-313 through 61-3-316, "vehicle" means a motor vehicle, as defined in 61-1-102, that is subject to annual registration in this state except:

(1) vehicles owned or leased and operated by the government of the United States or by the state of Montana or a political subdivision of the state;

(2) mobile homes and motor homes;

(3) vehicles that are registered in accordance with or subject to 61-3-332(10)(c)(i)(A), 61-3-411, or 61-3-421;

(4) trucks exceeding a 1-ton rated capacity;

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(5) trailers, semitrailers, tractors, and buses, ~~motorcycles, quadricycles, and motor-driven cycles;~~
(6) special mobile equipment as defined in 61-1-104;
(7) motor vehicles registered as part of a fleet under 61-3-318; and
(8) apportionable vehicles registered as part of a fleet, as defined in 61-3-712, that is subject to the provisions of 61-3-711 through 61-3-733."

Insert: "Section 32. Section 61-3-315, MCA, is amended to read:

"61-3-315. Reregistration on anniversary date -- department to make rules. (1) A vehicle that has been registered for any of the periods designated in 61-3-314 must be reregistered for the same period on or before the anniversary date of the initial registration unless that period is changed as provided in subsections (2) and (4). The anniversary date for reregistration is the last day of the month for the designated registration period.

(2) (a) The owner of a motor vehicle subject to the provisions of 61-3-313 through 61-3-316 and subject to the registration fee, as provided in 61-3-560 and 61-3-561, may register the motor vehicle for a period not to exceed 24 months. The registration expires on the last day of the 24th month commencing from the date of the designated registration period under 61-3-314 for which the vehicle is registered.

(b) The owner of a motor vehicle 11 years old or older subject to the provisions of 61-3-313 through 61-3-316 and subject to the registration fee, as provided in 61-3-560 and 61-3-561, ~~may~~ shall permanently register the motor vehicle as provided in 61-3-562. The registration remains in effect until ownership of the vehicle is transferred to another person by the registered owner.

(3) The department shall adopt rules for the implementation and administration of 61-3-313 through 61-3-316 and for the identification of the registration on the vehicles.

(4) The department shall provide for simultaneous registration of multiple vehicles that have common ownership. The rules must provide for a change of the registration period to coincide with the date an owner desires to register the vehicles."

Renumber: subsequent sections

68. Page 19, line 14.

Following: "purchase."

Insert: "(1)"

69. Page 19, line 18.

Following: "year."

Insert: "(2) The new owner of a vehicle described in 61-3-303(6) shall make application and pay the registration fees, fees in lieu of tax, and other fees required by part 5 of this chapter and local option taxes, if applicable, whether or not the fees and taxes have been paid previously.

(3)"

70. Page 19, line 24.

Following: "vehicle."

Insert: "(4)"

71. Page 19, line 25.

Following: "section."

Insert: "(5)"

72. Page 20, line 2.

Following: "registration or"

Insert: ", if applicable,"

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73. Page 20, line 4.

Following: "\$13.75"

Insert: "in calendar year 2004 and, in each subsequent year, \$19"

74. Page 20, line 5.

Strike: ";

Insert: ". For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer."

75. Page 20, line 9.

Following: "\$9"

Strike: ";

Insert: "in calendar year 2004 and, in each subsequent year, \$19.25. This fee is a one-time fee, except upon transfer of ownership of an off-highway vehicle."

76. Page 20, line 11.

Following: "\$18.75"

Insert: "in calendar year 2004 and, in each subsequent year, \$24"

77. Page 20, line 14.

Strike: ";

Insert: "in calendar year 2004 and, in each subsequent year, \$11.25. This fee is a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle."

78. Page 20, line 15.

Strike: ";

Insert: ". For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer."

79. Page 20, line 17.

Strike: ";

Insert: ". For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer."

80. Page 20, line 18.

Strike: "; and"

Insert: ". This fee is a one-time fee, except upon transfer of ownership of a travel trailer."

81. Page 20, line 19.

Following: "\$3.50"

Insert: "in calendar year 2004 and, in each subsequent year, \$9.75. If the recreational vehicle is a travel trailer, this fee is a one-time fee, except upon transfer of ownership of a travel trailer"

82. Page 20, line 20.

Following: "(2)"

Insert: "(a)"

Strike: "If"

Insert: "Except as provided in subsection (2)(b), if"

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83. Page 20.

Following: line 21

Insert: "(b) For a trailer or semitrailer described in 61-3-530(1), the applicable fees must be paid regardless of when the fees were last paid or if the fees were paid at all."

84. Page 20, line 22.

Following: "\$5"

Insert: "in calendar year 2004 and, in each subsequent year, \$16"

85. Page 21, line 1.

Following: "in the"

Insert: "state"

86. Page 21, line 4 through line 5.

Following: "(b)" on line 4

Insert: "(i)"

Strike: "The" on line 4 through "trailers" on line 5

Insert: "Trailers"

87. Page 21, line 6.

Strike: "; and"

Insert: "are not subject to the fee imposed in subsection (6)(a)."

88. Page 21, line 7.

Strike: "travel"

Insert: "Travel"

Following: "23-2-817"

Insert: "are subject to the fee imposed in subsection (6)(a), and as applied to these vehicles, the fee is a one-time fee for as long as the vehicle remains in the same ownership"

89. Page 22, line 5.

Following: "subsections"

Insert: "(3)(b),"

Following: "(4)(c)"

Insert: ", "

90. Page 22, line 10.

Strike: "motorcycles, quadricycles, and"

91. Page 22, line 11.

Following: "61-3-562"

Insert: "and vehicles described in 61-3-303(6) that are permanently registered"

92. Page 22, lines 23 and 24.

Strike: "motorcycle, quadricycle, or" on line 23

Following: "vehicle" on line 23

Insert: "described in subsection (3)(b)"

Strike: ", as" on line 23 through "61-3-562," on line 24

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93. Page 28, line 30.

Following: "subsections"

Insert: "(3)(b),"

Following: "(4)(c)"

Insert: ", "

94. Page 29, line 5.

Strike: "motorcycles, quadricycles, and"

95. Page 29, line 6.

Following: "61-3-562"

Insert: "and vehicles described in 61-3-303(6)"

96. Page 29, lines 18 and 19.

Strike: "motorcycle, quadricycle, or" on line 18

Following: "vehicle" on line 18

Insert: "described in subsection (3)(b)"

Strike: ", as" on line 18 through "61-3-562," on line 19

97. Page 36, line 25 through page 38, line 8.

Strike: sections 28 through 30 in their entirety

Insert: "**Section 39.** Section 61-3-521, MCA, is amended to read:

"61-3-521. Fee in lieu of tax for certain vehicles. (1) There is a fee in lieu of property tax imposed on motor homes; and travel trailers; ~~and campers~~ and on trailers, pole trailers, and semitrailers with a declared weight of less than 26,000 pounds. The fee is in addition to annual or one-time registration fees, as applicable.

(2) The fee imposed by subsection (1) need not be paid by a dealer for vehicles that constitute inventory of the dealership."

Insert: "**Section 40.** Section 61-3-523, MCA, is amended to read:

"61-3-523. Schedule of fees One-time fee for travel trailers and campers. (1) The Except as provided in subsection (2), the fee imposed by 61-3-521 on a travel trailer that is less than 3 years old is \$60. In all other cases the fee is \$22.50 is a one-time fee and is:

(a) for a travel trailer under 16 feet in length, \$25 in calendar year 2004 and, in each subsequent year, \$50; and

(b) for a travel trailer 16 feet in length or longer, \$65 in calendar year 2004 and, in each subsequent year, \$130.

(2) The fee imposed by 61-3-521 on a camper that is less than 3 years old is \$52.50. In all other cases the fee is \$22.50.

(3) (a) Except as provided in subsection (3)(b), the age of a travel trailer or camper is determined by subtracting the manufacturer's designated model year from the current calendar year.

(b) If the purchase year of a travel trailer or camper precedes the designated model year of the travel trailer or camper and the travel trailer or camper is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.

(2) Except as provided in subsection (3), whenever a transfer of ownership of a travel trailer occurs, the one-time fee required under subsection (1) must be paid by the new owner.

(3) The fee need not be paid by a dealer for travel trailers that constitute inventory of the dealership."

Renumber: subsequent sections

98. Page 38, line 12.

Strike: "and travel trailers"

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99. Page 38, line 14.

Strike: "or travel trailer"

100. Page 38, line 16.

Strike: "or travel trailer"

101. Page 38, line 18 through line 19.

Strike: "or" on line 18 through "trailer" on line 19

Strike: "vehicle" on line 19

Insert: "motor home or travel trailer"

102. Page 38, line 21.

Insert: "(3) A travel trailer that is initially registered under this chapter remains registered unless ownership of the travel trailer is transferred. If ownership is transferred, the new owner shall register the travel trailer as if the travel trailer were being registered for the first time."

103. Page 38, line 21.

Insert: "Section 42. Section 61-3-527, MCA, is amended to read:

"61-3-527. Fee One-time fee in lieu of tax for motorcycles and quadricycles -- schedule of fees -- permanent registration. (1) (a) There is a one-time fee in lieu of property tax of \$20 in calendar year 2004 and, in each subsequent year, \$40 imposed on motorcycles and quadricycles. The fee is in addition to ~~annual~~ registration fees.

(b) The fee imposed by subsection (1)(a) is not required to be paid by a dealer for motorcycles or quadricycles that constitute inventory of the dealership.

(2) ~~The owner of a motorcycle or quadricycle shall pay a fee based on the age of the motorcycle or quadricycle and the size of the engine, as follows:~~

~~(a) The fee schedule for a motorcycle or quadricycle with an engine that measures from 1 cubic centimeter to 600 cubic centimeters is as follows:~~

~~(i) less than 5 years old, \$30;~~

~~(ii) 5 years old and less than 11 years old, \$15; and~~

~~(iii) 11 years old and older, \$6.~~

~~(b) The fee schedule for a motorcycle or quadricycle with an engine that measures from 601 cubic centimeters to 1,000 cubic centimeters is as follows:~~

~~(i) less than 5 years old, \$55;~~

~~(ii) 5 years old and less than 11 years old, \$20; and~~

~~(iii) 11 years old and older, \$6.~~

~~(c) The fee schedule for a motorcycle or quadricycle with an engine that measures 1,001 cubic centimeters and larger is as follows:~~

~~(i) less than 5 years old, \$90;~~

~~(ii) 5 years old and less than 11 years old, \$50; and~~

~~(iii) 11 years old and older, \$6.~~

~~(3) (a) Except as provided in subsection (3)(b), the age of a motorcycle or quadricycle is determined by subtracting the manufacturer's designated model year from the current calendar year.~~

~~(b) If the purchase year of a motorcycle or quadricycle precedes the designated model year of the motorcycle or quadricycle and the motorcycle or quadricycle is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.~~

~~(4) (a) The owner of a motorcycle or quadricycle that is 11 years old or older and that is subject to the fee in lieu of tax under this section may permanently register the motorcycle or quadricycle upon payment of a \$30 fee in lieu of tax, the applicable registration and license fees under 61-3-321, and an amount equal to five times the applicable fees imposed or amounts calculated for each of the following:~~

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~~_____ (i) the motorcycle safety fee under 61-3-321 to be deposited in the account provided for in 20-25-1002;~~
~~_____ (ii) weed control under 15-1-122(3)(b);~~
~~_____ (iii) \$1 for the former county motor vehicle computer fee; and~~
~~_____ (iv) if applicable, renewal fees for personalized plates under 61-3-406.~~

~~_____ (b)(2) A person who permanently registers a motorcycle or quadricycle as provided in this subsection (4) section shall pay an additional \$2 one-time fee of \$1.25 at the time of registration for deposit in the state general fund. The department shall pay from the general fund an amount equal to the \$2 \$1.25 fee collected under this subsection (4)(b) from each vehicle registration to the pension trust fund for payment of supplemental benefits provided for in 19-6-709.~~

~~(3) Whenever a transfer of ownership of a motorcycle or quadricycle occurs, the one-time fees required under this section must be paid by the new owner. (Subsection (4)(b) (2) terminates on occurrence of contingency--sec. 24, Ch. 191, L. 2001.)"~~

Insert: "Section 43. Section 61-3-530, MCA, is amended to read:

"61-3-530. Schedule of fees Fee for trailers -- exception. (1) Except as provided in subsection (4) subsections (2) and (3), the owner of a trailer, pole trailer, or semitrailer that has a declared weight of less than 26,000 pounds shall pay the fee imposed pursuant to 61-3-521. The fee is based on the age and declared weight of the trailer or semitrailer according to the following schedule:

Age (in years)	Declared Weight (in pounds)		
	0-6,000	6,001-16,000	16,001-25,999
Less than 5 years old	\$16	\$55	\$74
5 years old and less than 10 years old	11	32	41
10 years old and older	6	17	23

~~_____ (2) (a) Except as provided in subsection (2)(b), the age of a trailer, pole trailer, or semitrailer is determined by subtracting the manufacturer's designated model year from the current calendar year. For trailers, pole trailers, and semitrailers that do not have a designated model year, the department shall determine a year of manufacture.~~

~~_____ (b) If the purchase year of a trailer, pole trailer, or semitrailer precedes the designated model year of the trailer, pole trailer, or semitrailer and the trailer, pole trailer, or semitrailer is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.~~

~~_____ (3) The declared weight is the total unladen weight of the trailer, pole trailer, or semitrailer plus the maximum load declared by the owner to be carried on the trailer, pole trailer, or semitrailer a one-time fee and is:~~

~~(a) for a trailer, pole trailer, or semitrailer with a declared weight under 6,000 pounds, \$25 in calendar year 2004 and, in each subsequent year, \$50; and~~

~~(b) for a trailer, pole trailer, or semitrailer with a declared weight of 6,000 pounds or more, \$65 in calendar year 2004 and, in each subsequent year, \$130.~~

~~(4)(2) This section does not apply to a trailer, pole trailer, or semitrailer that has a declared weight of less than 26,000 pounds and that:~~

~~(a) is registered through a proportional registration agreement under 61-3-721; or~~

~~(b) constitutes inventory of a trailer, pole trailer, or semitrailer dealership.~~

~~(3) Whenever a transfer of ownership of a trailer, pole trailer, or semitrailer described in subsection (1) occurs, the one-time fee required under subsection (1) must be paid by the new owner."~~

Renumber: subsequent sections

104. Page 39, line 3.

Insert: "Section 45. Section 61-3-560, MCA, is amended to read:

"61-3-560. Light vehicle registration fee -- exemptions -- 24-month registration. (1) Except as provided in subsections (2) and (3), there is a registration fee imposed on light vehicles. The registration fee is in addition to other annual registration fees.

(2) The following vehicles are exempt from the fee imposed in subsection (1):

(a) light vehicles that meet the description of property exempt from taxation under 15-6-201(1)(a), (1)(c) through (1)(e), (1)(g), (1)(m), (1)(o), (1)(q), or (1)(w), 15-6-203, or 15-6-215, except as provided in 61-3-520;

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(b) a light vehicle owned by a 100% disabled veteran or by a 50% or more disabled veteran who has been awarded the purple heart qualifying for one set of special license plates under 61-3-332(10)(c) or 61-3-426;

(c) a light vehicle owned by an ex-prisoner of war qualifying for one set of special plates under 61-3-332(10)(d) or a surviving spouse of an ex-prisoner of war under 61-3-457; and

(d) a light vehicle registered under 61-3-456.

(3) A dealer for light vehicles is not required to pay the registration fee for light vehicles that constitute inventory of the dealership and that are reported under 61-3-501.

(4) The owner of a light vehicle subject to the provisions of 61-3-313 through 61-3-316 may register the light vehicle for a period not to exceed 24 months. The application for registration or reregistration must be accompanied by the registration fee and all other fees required in this chapter for each 12-month period of the 24-month period. However, the registration fees required under 61-3-321(1)(a) or (1)(b) paid at the time of registration or reregistration apply for the entire 24-month registration period."

"Section 46. Section 61-3-561, MCA, is amended to read:

"61-3-561. Schedule of fees for light vehicles -- ~~limitation on fee~~ -- payment of fee required for operation. (1) The following schedule, based on vehicle age, is used to determine the annual registration fee imposed by 61-3-560:

Vehicle Age (in years)	Annual Fee
4 or less	\$195 <u>\$200</u>
5-10	65 <u>70</u>
11 or more	6

(2) A light vehicle subject to the registration fee imposed by 61-3-560 may not be operated unless the fee has been paid and the vehicle is licensed. A lien for fees due on the vehicle occurs on the anniversary date of the registration and continues until the fees have been paid.

(3) For the purposes of this section, "vehicle age" means the age of the vehicle determined by subtracting the manufacturer's model year of the vehicle from the calendar year for which the registration fee is due."

Insert: "Section 47. Section 61-3-562, MCA, is amended to read:

"61-3-562. Permanent registration -- transfer of vehicle ownership -- rules. (1) (a) The owner of a light vehicle 11 years old or older, other than a vehicle with collegiate plates issued under 61-3-465 or generic specialty license plates issued under 61-3-479, subject to the registration fee, as provided in 61-3-561 61-3-315(2)(b), may shall permanently register the vehicle. For the calendar year commencing January 1, 2004, the registration fee is \$25, and for all succeeding years, the fee is \$55, upon payment of a \$50 registration fee; The owner of the vehicle shall also pay the applicable registration and license fees under 61-3-321; and an amount equal to five times the applicable fees imposed for each of the following:

(i) a \$4 junk vehicle disposal fees fee to be allocated under 15-1-122(3)(a);

(ii) a \$6 weed control fees fee to be allocated under 15-1-122(3)(b);

~~(iii) the former county motor vehicle computer fees under 61-3-511;~~

~~(iv)~~ (iii) the local option vehicle tax or flat fee on vehicles under 61-3-537 for the current calendar year;

~~(v)~~ (iv) if applicable, license plate fees under 61-3-332 and renewal fees for personalized plates under 61-3-406 for the current year;

~~(vi)~~ (v) if applicable, the amateur radio operator license plate fee under 61-3-422 for the current year;

~~(vii) if applicable, the annual scholarship donation fee under 61-3-465; and~~

~~(viii)~~ (vi) a \$1 senior citizens and persons with disabilities transportation services fees fee and beginning in calendar year 2005, a \$1.25 fee to be deposited as provided in 61-3-321(6).

(b) A person who permanently registers a vehicle as provided in subsection (1)(a) shall pay an additional \$2 \$1.25 fee at the time of registration for deposit in the state general fund. The department shall pay from the general fund an amount equal to the \$2 \$1.25 fee collected under this subsection (1)(b) from each motor vehicle registration to the pension trust fund for payment of supplemental benefits provided for in 19-6-709.

(c) The fees associated with the following series of license plates must be paid only once, in the year of registration or reregistration, to be used for purposes of permanent registration of a vehicle:

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- (i) Montana national guard license plates issued under 61-3-332(10)(a)(i);
- (ii) reserve armed forces license plates issued under 61-3-332(10)(b);
- (iii) license plates bearing a wheelchair design as a symbol of a person with a disability issued under 61-3-332(10)(g); and
- (iv) amateur radio operator license plates issued under 61-3-422.

(2) In addition to the fees described in subsection (1), an owner of a truck with a manufacturer's rated capacity of 1 ton or less that is permanently registered shall pay ~~five~~ three times the applicable fees imposed under 61-10-201 for the current year.

(3) The owner of a vehicle that is permanently registered under this section is not subject to additional fees under 61-3-561 or to other motor vehicle registration fees described in this section for as long as the owner owns the vehicle.

(4) The county treasurer shall:

(a) distribute the ~~\$50~~ applicable permanent registration fee collected under ~~this section~~ subsection (1)(a) as provided in 61-3-509;

(b) once each month, remit to the department of revenue the amounts collected under this section, other than the local option vehicle tax or flat fee, for the purposes of 61-3-321(3) and 61-10-201. The county treasurer shall retain the local option vehicle tax or flat fee.

(5) (a) The permanent registration of a vehicle allowed by this section may not be transferred to a new owner. If the vehicle is transferred to a new owner, the department shall cancel the vehicle's permanent registration.

(b) Upon transfer of a vehicle registered under this section to a new owner, the new owner shall apply for a certificate of ownership under 61-3-201 and file an application for registration under 61-3-303. (Subsection (1)(b) terminates on occurrence of contingency--sec. 24, Ch. 191, L. 2001.)"

Insert: "Section 48. Section 61-3-570, MCA, is amended to read:

"61-3-570. Local option flat fee. (1) A local option flat fee for each light vehicle may be imposed within a county by the board of county commissioners by adoption of a resolution and referral to the electorate. The imposition of the fee must be approved by the majority of the electorate voting in the election.

(2) The flat fee is:

(a) applicable annually for light vehicles that are registered annually; and

(b) a one-time fee for light vehicles registered under 61-3-562.

(3) Fees collected under this section must be distributed as provided in 61-3-537."

Insert: "NEW SECTION. Section 49. Repealer. Sections 23-2-520, 23-2-618, 23-2-620, 23-2-810, 61-3-519, 61-3-524, 61-3-525, and 61-3-606, MCA, are repealed."

"NEW SECTION. Section 50. Coordination instruction. (1) If Senate Bill No. 118 and [this act] are both passed and approved and both amend 61-3-562, then [section 16] of Senate Bill No. 118, amending 61-3-562, is void.

(2) If Senate Bill No. 287 and [this act] are both passed and approved and both amend 15-1-122 or 23-2-512, then:

(a) the sections in Senate Bill No. 287 that amend 15-1-122 and 23-2-512 are void;

(b) in 15-1-122(3)(c)(i), the \$2.50 fee for 2004 must be changed to \$5.50 and the fee for subsequent years must be changed to \$17.50; and

(c) in 23-2-512(1) the \$3.50 fee for 2004 must be changed to \$6.50 and the fee for subsequent years must be changed to \$18.50.

(3) If House Bill No. 414 and [this act] are both passed and approved, then House Bill No. 414 is void.

(4) If House Bill No. 558 and [this act] are passed and approved, and both amend 23-2-614, then the amendment of 23-2-614 in House Bill No. 558 is void.

(5) (a) If House Bill No. 538 and [this act] are both passed and approved and both amend 61-3-303, then 61-3-303 as amended in House Bill No. 538 is void and 61-3-303 must read as follows:

Insert: "Section 28. Section 61-3-303, MCA, is amended to read:

"61-3-303. ~~Application for registration~~ Registration -- process -- fees. (1) ~~Each owner of~~ A Montana

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resident who owns a motor vehicle operated or driven upon the public highways of this state shall ~~for each~~ register the motor vehicle ~~owned, except as otherwise provided in this section, file in the office of the county treasurer in the county where the owner permanently resides at the time of making the application or, if the vehicle is owned by a corporation or used primarily for commercial purposes, in the taxing jurisdiction of the county where the vehicle is permanently assigned an application for registration or reregistration on a form prescribed by the department. The application must contain:~~

~~_____ (a) the name and address of the owner, giving the county, school district, and town or city within whose corporate limits the motor vehicle is taxable, if taxable, or within whose corporate limits the owner's residence is located if the motor vehicle is not taxable;~~

~~_____ (b) the name and address of the holder of any security interest in the motor vehicle;~~

~~_____ (c) a description of the motor vehicle, including make, year model, engine or serial number, manufacturer's model or letter, gross weight, declared weight on all trucks for which the manufacturer's rated capacity is 1 ton or less, and type of body and, if a truck, the manufacturer's rated capacity;~~

~~_____ (d) the declared weight on all trailers operating intrastate, except travel trailers or trailers and semitrailers registered as provided in 61-3-711 through 61-3-733;~~

~~_____ (e) a space in which the person registering the vehicle may indicate the person's desire to donate \$1 or more to promote awareness and education efforts for procurement of organ and tissue donations for anatomical gifts, and~~

~~_____ (f) other information that the department may require.~~

(2) (a) Except as provided in subsection (3), the county treasurer shall register any vehicle for which:

(i) as of the date that the vehicle is to be registered, the owner delivers an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

(ii) the county treasurer confirms that the department has an electronic record of title for the vehicle as provided under 61-3-101.

(b) To register a vehicle, the county treasurer shall update the electronic record of title maintained by the department under 61-3-101 by entering the fees paid and recording any changes to the recorded data.

(3) (a) A county treasurer shall register a motor vehicle for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer may ask the vehicle owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer may register a motor vehicle for which the new owner cannot present the previously issued certificate of title only as authorized by the department under 61-3-342.

(4) The department or the county treasurer shall determine the amount of fees, including local option taxes or fees, to be collected at the time of registration for each light vehicle subject to a registration fee under 61-3-560 through 61-3-562 and for each bus, truck having a manufacturer's rated capacity of more than 1 ton, and truck tractor subject to a fee in lieu of tax under 61-3-529. The county treasurer shall collect the registration fee, other appropriate fees, and local option taxes or fees, if applicable, on each motor vehicle at the time of its registration.

~~(2)(5)~~ A person who files an application for registration or reregistration of seeks to register a motor vehicle, except of a mobile home or a manufactured home as those terms are defined in 15-1-101(1), shall upon the filing of the application pay to the county treasurer:

(a) the registration fee, as provided in 61-3-311 and 61-3-321 or 61-3-456;

(b) except as provided in 61-3-456 or unless it has been previously paid, the motor vehicle fees in lieu of tax or registration fees under 61-3-560 through 61-3-562 imposed against the vehicle for the current year of registration and the immediately previous year; and

(c) a donation of \$1 or more if the person has indicated on the application that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts.

~~(3)(6)~~ The application may not be accepted by the county treasurer may not issue a registration receipt or license plates for the vehicle to the owner unless the owner makes the payments required by subsection (2) (5) accompany the

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 10, 2003

application. Except as provided in 61-3-560 through 61-3-562, the department may not assess or impose and the county treasurer may not collect taxes or fees for a period other than:

- (a) the current year; and
- (b) except as provided in subsection (9), the immediately ~~previous~~ preceding year if the vehicle was not registered or operated on the highways of the state, regardless of the period of time since the vehicle was previously registered or operated.

~~(4)(7)~~ The department may make full and complete investigation of the registration status of the vehicle. ~~An applicant for registration or reregistration shall submit proof from appropriate records of the proper county at the request of the department.~~ A person seeking to register a motor vehicle under this section shall provide additional information to support the registration to the department, if requested.

~~(5)(8)~~ Revenue that accrues from the voluntary donation provided in subsection ~~(2)(c)~~ (5)(c) must be forwarded by the respective county treasurer for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, pole trailer, or semitrailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the vehicle is owned by the same person who registered the vehicle. Once registered, a vehicle described in this subsection (9)(a) is registered permanently unless ownership of the vehicle is transferred.

(b) Whenever ownership of a vehicle described in subsection (6)(a) is transferred, the new owner is required to register the vehicle as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees."

(b) If House Bill No. 538 and [this act] are both passed and approved and both amend 61-3-311, then 61-3-311 as amended in House Bill No. 538 is void and 61-3-311 must read as follows:

"Insert: "Section 29. Section 61-3-311, MCA, is amended to read:

"61-3-311. Time for making application Registration -- annual renewal -- time periods. (1) Registration must be renewed annually, and license registration fees must be paid annually. Except as provided in 61-3-313 through 61-3-316, 61-3-318, 61-3-526, and 61-3-721, all registrations expire on December 31 of the year in which they are issued and application for registration or reregistration must be filed with must be renewed annually upon payment of all required fees to the county treasurer or the department's agent not later than February 15 of each year. If the ownership of a motor vehicle is transferred during the registration year, the new owner shall apply for a certificate of title and register the motor vehicle ~~must be reregistered and relicensed~~ as provided by statute this chapter.

(2) The department, its authorized agent, or a county treasurer may not renew the registration of a vehicle whose ownership has been transferred and that was originally registered under the provisions of 61-3-342(3), unless:

(a) the previously issued certificate of title has been surrendered to the department, its authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or

(b) the person to whom ownership of the vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208."

(6) (a) If Senate Bill No. 112 and [this act] are both passed and approved and both amend 15-1-122, then subsection (3)(g) of 15-1-122 must read as follows:

"(g) to the search and rescue account provided for in [section 1 of Senate Bill No. 112]:

(i) \$2 a year for each vessel subject to the search and rescue surcharge in 23-2-517;

(ii) \$2 a year for each snowmobile subject to the search and rescue surcharge in 23-2-615(1)(b) and 23-2-616(3);
and

(iii) \$2 a year for each off-highway vehicle subject to the search and rescue surcharge in 23-2-803; and"

(b) If Senate Bill No. 112 and [this act] are both passed and approved and both amend 23-2-517, 23-2-616, or 23-2-803, the amendments to 23-2-517, 23-2-616, or 23-2-803 in Senate Bill No. 112 are void."

Renumber: subsequent sections

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 10, 2003

And, as amended, be concurred in. Report adopted.

HB 748, be amended as follows:

1. Page 5, line 21.

Following: "county"

Insert: ", including districts within the county established by the county"

And, as amended, be concurred in. Report adopted.

HJR 2, be amended as follows:

1. Page 2, line 19.

Strike: "\$1,207,542,000"

Insert: "\$1,195,014,000"

2. Page 3, line 6.

Strike: "The"

Insert: "Except for fiscal year 2003, the"

3. Page 3, line 15.

Strike: "\$527.400"

Insert: "\$520.764"

4. Page 3, line 16.

Strike: "173.277"

Insert: "172.309"

5. Page 3, line 19.

Strike: "73.510"

Insert: "74.773"

6. Page 3, line 20.

Strike: "53.814"

Insert: "47.347"

7. Page 4, line 2.

Strike: "44.417"

Insert: "45.219"

8. Page 4, line 11.

Strike: "10.153"

Insert: "11.015"

9. Page 4, line 12.

Strike: "16.043"

Insert: "18.403"

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10. Page 4, line 13.

Strike: "11.200"

Insert: "7.456"

11. Page 5, line 12.

Strike: "\$1,207.542"

Insert: "\$1,195.014"

And, as amended, be concurred in. Report adopted.

MOTIONS

FREE CONFERENCE COMMITTEES

SB 126 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee, to confer on **SB 126**. Motion carried. The President appointed the following members:

Senator Story, Chair
Senator Black
Senator Toole

HB 201 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 201**. Motion carried. The President appointed the following members:

Senator Sprague, Chair
Senator Gebhardt
Senator Wheat

HB 298 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 298**. Motion carried. The President appointed the following members:

Senator Gebhardt, Chair
Senator McGee
Senator Wheat

CONFERENCE COMMITTEES

HB 107 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 107**. Motion carried. The President appointed the following members:

Senator Glaser, Chair
Senator Black
Senator Elliott

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HB 277 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 277**. Motion carried. The President appointed the following members:

Senator Sprague, Chair
Senator Gebhardt
Senator McCarthy

HB 642 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 642**. Motion carried. The President appointed the following members:

Senator Story, Chair
Senator Glaser
Senator Toole

SPECIAL ORDERS OF THE DAY

SR 4 - Senator Cobb moved **SR 4**, concurring in, confirming, and consenting to the nomination and appointment made by the Governor, and submitted to the Senate, of John Mercer as a member of the Board of Regents, be adopted, and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 40

Nays: Cooney, Ellingson, Harrington, Kitzenberg, Nelson, Pease, Ryan, Schmidt, Toole.
Total 9

Absent or not voting: None.
Total 0

Excused: Elliott.
Total 1

SR 5 - Senator Cobb moved **SR 5**, concurring in, confirming, and consenting to the nomination and appointment made by the Governor, and submitted to the Senate, of Christian Hur as a member of the Board of Regents, be adopted, and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

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Paired: Esp, McGee, McNutt, Ayes; Elliott, Mangan, Wheat, Noes.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 211**
Report No. 1, April 10, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 211** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 211** (reference copy -- salmon) be amended as follows:

1. Title, line 13.

Following: "HEARINGS;"

Insert: "REQUIRING AN INTERIM REPORT ON DISPOSITION OF NATIVE AMERICAN PAROLE APPLICATIONS;"

2. Page 8, line 17.

Following: line 16

Insert: "NEW SECTION. **Section 16. Interim report.** During the biennium beginning July 1, 2003, the board of pardons and parole shall report to the law and justice interim committee of the legislature on the disposition of parole applications made by Native Americans, including the reasons for approval or denial of parole, during the period of January 1, 1999, through March 31, 2004. The report must be made before July 1, 2004, and must be included in the board's biennial report."

Renumber: subsequent section

For the House:

Laszloffy, Chairman
Everett
Juneau (unsigned)

For the Senate:

McGee, Chairman
Curtiss
Pease

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to House bill **not** concurred in and transmitted to the Senate for consideration of the Governor's amendments:

4/10/2003

HB 87, introduced by Jent

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MOTIONS

SB 47 - Senator Curtiss moved she be allowed to change her vote on **SB 47**, third reading this day, from nay to aye. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, April 11, 2003. Motion carried.

Senate adjourned at 3:51 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
April 11, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Elliott and Shea, excused. Quorum present.

The presiding officer has authenticated the daily journal for the seventy-seventh legislative day.

SPECIAL ORDERS OF THE DAY

Baktybek Abdrisaev (Bock-Te-Beck Ahb-Dree-Sigh-Yev), Ambassador of the Republic of Kyrgyz, was welcomed to the Senate, where he gave a short speech.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 492, SR 8, SR 9.**

Correctly engrossed: **HB 2, HB 5, HB 261.**

Correctly enrolled: **SB 13, SB 34, SB 65, SB 76, SB 80, SB 86, SB 98, SB 105, SB 110, SB 113, SB 137, SB 143, SB 146, SB 152, SB 159, SB 209, SB 226, SB 284, SB 389, SB 429, SB 432, SB 450.**

Examined by the sponsor and found to be correct: **SB 13, SJR 2, SJR 4, SJR 7, SJR 8, SJR 15, SJR 16, SJR 23, SJR 24, SJR 26, SJR 27.**

Signed by the President at 3:00 p.m., April 10, 2003: **SB 13.**

Signed by the President at 3:30 p.m., April 9, 2003: **SJR 2 SJR 4, SJR 7, SJR 8, SJR 15, SJR 16, SJR 23, SJR 24, SJR 26, SJR 27.**

Signed by the Secretary of the Senate at 3:30 p.m., April 10, 2003: **SB 13.**

Signed by the Secretary of the Senate at 12:30 p.m., April 10, 2003: **SJR 2 SJR 4, SJR 7, SJR 8, SJR 15, SJR 16, SJR 23, SJR 24, SJR 26, SJR 27.**

Signed by the Speaker at 3:20 p.m., April 10, 2003: **SB 13.**

Signed by the Speaker at 1:15 p.m., April 10, 2003: **SJR 2 SJR 4, SJR 7, SJR 8, SJR 15, SJR 16, SJR 23, SJR 24, SJR 26, SJR 27.**

Delivered to the Governor for approval at 4:00 p.m., April 10, 2003: **SB 13.**

Delivered to the Secretary of State at 3:59 p.m., April 10, 2003: **SJR 2 SJR 4, SJR 7, SJR 8, SJR 15, SJR 16, SJR 23, SJR 24, SJR 26, SJR 27.**

Examined by the sponsor and found to be correct: **SB 168, SB 191, SB 217, SB 306, SB 307, SB 316, SB 334, SB 449, SJR 11, SR 6.**

Signed by the President at 4:00 p.m., April 8, 2003: **SB 168, SB 191, SB 217, SB 306, SB 307, SB 316, SB 334, SB 449, SJR 11, SR 6.**

Signed by the Secretary of the Senate at 8:30 a.m., April 9, 2003: **SB 168, SB 191, SB 217, SB 306, SB 307, SB 316, SB 334, SB 449, SJR 11, SR 6.**

Signed by the Speaker at 9:35 a.m., April 9, 2003: **SB 168, SB 191, SB 217, SB 306, SB 307, SB 316, SB 334, SB 449.**

Delivered to the Governor for approval at 10:35 a.m., April 11, 2003: **SB 168, SB 191, SB 217, SB 306, SB 307, SB 316, SB 334, SB 449.**

Delivered to the Secretary of State at 11:55 a.m., April 11, 2003: **SJR 11, SR 6,**

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FINANCE AND CLAIMS (Zook, Chairman):
SB 491, do pass. Report adopted.

4/8/2003

HB 4, be amended as follows:

1. Page 1.

Following: line 23

Insert: "State Auditor's Office
Securities

National White Collar Crime Center	2003	\$39,311	Federal Funds"
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2. Page 2.

Following: line 1

Insert: "Board of Crime Control
Justice System Support Services

Forensic Science Improvements	2003	\$29,178	Federal Funds
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All remaining fiscal year 2003 federal budget amendment authority for forensic science improvements is authorized to continue into state fiscal year 2004."

3. Page 2.

Following: line 5

Insert: "Division of Criminal Investigation

All remaining fiscal year 2003 federal budget amendment authority for the Rocky Mountain high intensity drug trafficking area is authorized to continue into state fiscal year 2004.

Forensic Sciences Division

All remaining fiscal year 2003 federal budget amendment authority for the Rocky Mountain high intensity drug trafficking area is authorized to continue into state fiscal year 2004.

Montana Arts Council

Promotion of the Arts

All remaining fiscal year 2003 federal budget amendment authority from the national endowment for the arts virtual exhibit of Montana folklife and folk art is authorized to continue into state fiscal year 2004."

4. Page 2, line 24.

Strike: "\$60,735"

Insert: "\$63,165"

5. Page 3.

Following: line 7

Insert: "Fish Restoration and Irrigation Mitigation Act

	2003	\$15,720	Federal Funds
Native Fishes at Fort Peck Dam	2003	\$461,203	Federal Funds"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 11, 2003

6. Page 3, line 9.

Following: "HATCHERY"

Insert: "and Fish Restoration and Irrigation Mitigation Act"

7. Page 3.

Following: line 21

Insert: "Parks Division

Lewis and Clark Bicentennial	2003	\$65,000	Federal Funds
------------------------------	------	----------	---------------

All remaining fiscal year 2003 federal budget amendment authority for the Lewis and Clark bicentennial is authorized to continue into state fiscal year 2005."

8. Page 4.

Following: line 4

Insert: "Department of Livestock

Animal Health Division

Greater Yellowstone Interagency Brucellosis Committee

2003	\$61,533	Federal Funds
------	----------	---------------

All remaining fiscal year 2003 federal budget amendment authority for the greater Yellowstone interagency brucellosis committee is authorized to continue into state fiscal year 2004."

9. Page 4.

Following: line 13

Insert: "Stryker Basin Trail System Grant

	2003	\$7,292	Federal Funds
Hazardous Fuel Reduction	2003	\$232,500	Federal Funds
Fire Suppression	2003	\$690,569	Federal Funds"

10. Page 4.

Following: line 15

Insert: "All remaining fiscal year 2003 federal budget amendment authority for the Stryker basin trail system grant is authorized to continue into state fiscal year 2004."

11. Page 4.

Following: line 30

Insert: "Organic Producers' Cost Share

2003	\$110,000	Federal Funds
------	-----------	---------------

All remaining fiscal year 2003 federal budget amendment authority for the organic producers' cost share is authorized to continue in to federal fiscal year 2004."

12. Page 6.

Following: line 7

Insert: "Communications Funding

Army Recruiting Office Lease

2003	\$375,524	Federal Funds
2003	\$18,000	Federal Funds

All remaining fiscal year 2003 federal budget amendment authority for communications funding and for the army recruiting office lease is authorized to continue into state fiscal year 2004."

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SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 11, 2003

13. Page 6.

Following: line 9

Insert: "MTANG Firefighter	2003	\$32,000	Federal Funds
-----------------------------------	------	----------	---------------

All remaining fiscal year 2003 federal budget amendment authority for MTANG firefighter funds is authorized to continue into state fiscal year 2004."

14. Page 6.

Following: line 21

Insert: "2003 LIEAP Award	2003	\$1,038,139	Federal Funds
Food Stamp Program	2003	\$6,000,000	Federal Funds"

15. Page 6, line 22.

Following: "for"

Insert: "the 2003 LIEAP award, the food stamp program, and"

16. Page 6.

Following: line 26

Insert: "Child Support Enforcement Division			
Special Improvement Project	2003	\$149,464	Federal Funds

All remaining fiscal year 2003 federal budget amendment authority for the special improvement project is authorized to continue into state fiscal year 2004."

And, as amended, be concurred in. Report adopted.

HB 7, be concurred in. Report adopted.

HB 11, be amended as follows:

1. Title, page 1, line 8.

Following: "AND" on line 8

Insert: "APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
FOR FINANCIAL ASSISTANCE"

2. Page 5, line 29.

Strike: "commerce"

Insert: "natural resources and conservation"

3. Page 6, line 19.

Strike: "commerce"

Insert: "natural resource and conservation"

And, as amended, be concurred in. Report adopted.

HB 13, be amended as follows:

1. Page 14, line 14.

Following: "2-18-701"

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Strike: "and"

Insert: ", "

2. Page 14, line 14 through line 17.

Following: "legislature,"

Strike: "the employer" on line 14 through "For" on line 17

Insert: "and for"

And, as amended, be concurred in. Report adopted.

HB 18, be amended as follows:

1. Title, line 9.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 2.

Following: line 10

Insert: "NEW SECTION. Section 5. Termination. [This act] terminates June 30, 2005."

And, as amended, be concurred in. Report adopted.

HB 42, be amended as follows:

1. Title, line 8 through line 9.

Strike: "AND" on line 8 through "APPROPRIATION" on line 9

2. Title, line 10.

Following: "ALLOCATED"

Insert: "FOR RESIDENTS"

3. Title, line 11.

Strike: "17-7-502,"

4. Title, line 11.

Strike: "87-1-268,"

Strike: "87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512,"

5. Page 3, line 3 through line 4.

Strike: "That portion" on line 3 through "17-7-502." on line 4

6. Page 3, line 14 through page 4, line 12.

Strike: section 6 in its entirety

Renumber: subsequent sections

7. Page 7, line 3 through line 13.

Strike: section 8 in its entirety

Renumber: subsequent sections

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8. Page 11, line 9.

Strike: "Class B-10, Class B-11,"

9. Page 12, line 18 through page 20, line 17.

Strike: sections 12 through 16 in their entirety

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 363, be amended as follows:

1. Title, line 10.

Following: "1990;"

Insert: "TRANSFERRING TO THE GENERAL FUND MONEY FROM THE RESERVES FOR CLAIMS OCCURRING BEFORE JULY 1, 1990;"

2. Page 1, line 20.

Strike: "for payment of claims"

3. Page 2, line 21.

Following: "2004" on line 21

Strike: " ; "

Insert: " : (i) "

4. Page 2, line 22.

Following: "FUND"

Insert: " ; and (ii) \$30 million must be transferred to the general fund from the reserves for claims for injuries that occurred before July 1, 1990"

5. Page 3, line 1.

Strike: "If"

Insert: "Except with respect to funds transferred pursuant to subsection (5)(b)(ii), if"

And, as amended, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

4/11/2003

SB 489, introduced bill, be amended as follows:

1. Title, page 1, line 4 through line 6.

Strike: "FROM THE" on line 4 through "DAKOTA BORDER" on line 6

Insert: "IN MONTANA"

2. Page 2, line 2 through line 6.

Following: "trail is"

Insert: "the"

Strike: "15 from" on line 2 through "Dakota border" on line 6

Insert: "system in Montana"

3. Page 2, line 14.

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Strike: "[section 1] and"

Strike: "of this section"

And, as amended, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **House Bill 283**

Report No. 1, April 11, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 283** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 283** (reference copy -- salmon) be accepted by the House.

For the House:

Fuchs, Vice Chairman
Balyeat
Jent

For the Senate

Sprague, Chairman
McGee
Shea

MESSAGES FROM THE GOVERNOR

April 10, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 118** sponsored by Senator DePratu, **Senate Bill 211** sponsored by Senator Hansen, and **Senate Bill 292** sponsored by Senator Cocchiarella et al. on April 10, 2003.

Sincerely,

JUDY MARTZ
Governor

April 10, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 11, 2003

Dear Senator Keenan:

Attached is our fourth list of board appointments not yet confirmed by the Montana Legislature. These names were inadvertently left off of Report No. 2. We have supplied the following information for each member:

Board Name
Member Name
Member Address and Phone Numbers
Brief Member Biography
Position Requirement

If I or my staff can be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

JUDY MARTZ
Governor

**SENATE CONFIRMATION REPORT
2003**

Board of Personnel Appeals

MCA 2-15-1705

Steve Johnson
200 W. Broadway
Missoula, MT 59802
HPH: 523-4874
BPH: 721-5700

Appt: 02/06/03
Term: 01/01/07
Qual: Representative of management in
collective bargaining

Steve has been a management representative in collective bargaining for more than twelve years. For the past five years he has worked as the Director of Personnel and Labor Relations for Missoula County.

Patrick Dudley
P.O. Box 3300
Butte, MT 59702
HPH: 782-3688
BPH: 723-2500

Appt: 02/06/03
Term: 01/01/07
Qual: Representative of substitute management with
Collective bargaining experience

Pat is a registered Medical Technologist at St. James Community Hospital in Butte. He has been the Human Resources Director for ten years. Pat was the Education Director and Employment Supervisor prior to his current position.

Joe Dwyer
P.O. Box 50969
Billings, MT 59105
HPH: 248-2658
BPH: 248-2658

Appt: 02/06/03
Term: 01/01/07
Qual: Representative of labor

Joe Dwyer is the current Secretary Treasurer of Teamsters Local 190. He has held that position since 1997. Prior to his election as Secretary Treasurer he was Business Agent for the local. In both capacities he has represented his

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members in public as well as public sector collective bargaining matters.

April 10, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 693, "AN ACT PROVIDING THAT CHILD SUPPORT OBLIGATIONS DETERMINED PURSUANT TO ADMINISTRATIVE PROCEDURE ARE EFFECTIVE IMMEDIATELY UPON SERVICE OF A NOTICE OF FINANCIAL RESPONSIBILITY ON THE PARENT OR PARENTS AND THAT FINAL ORDERS ARE RETROACTIVE TO THAT DATE; PROVIDING THAT A NOTICE OF FINANCIAL RESPONSIBILITY MUST INCLUDE A STATEMENT REGARDING ITS IMMEDIATE EFFECTIVENESS; AMENDING SECTION 40-5-225, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE" for the following reasons:

House Bill No. 693 provides child support during the pendency of a child support establishment action before the Child Support Enforcement Division (CSED). This raises constitutional issues, specifically due process violations. The enforcement of private rights, including notice and right to a fair hearing before a tribunal with the power to decide a case, is paramount.

Currently, Montana law provides that an administrative child support order must be first adjudicated, with notice and opportunity for a hearing, prior to any enforcement action. Further, no enforcement is allowed until the final order is entered.

For these reasons, I recommend that House Bill No. 693, Section 40-5-225 (2)(c) in pertinent part read: The notice must include a statement that the monthly support obligation is effective on the date of service of the notice, *unless an objection is made and a hearing is requested*, and may be collected during the proceeding that establishes the support obligation by any remedy available to the department for the enforcement of child support obligations.

I have enclosed my amendment to that effect. Please be advised that Representative Sinrud, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 693

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1. Page 1, line 24.

Following: "notice"

Insert: ", unless an objection is made and a hearing is requested,"

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/10/2003

HB 105, introduced by B. Olson
HB 223, introduced by Lawson
HB 253, introduced by Hedges
HB 266, introduced by Jacobson
HB 270, introduced by Bergren
HB 338, introduced by Keane
HB 396, introduced by Gibson
HB 410, introduced by Younkin
HB 451, introduced by E. Clark
HB 468, introduced by Gillan
HB 521, introduced by Balyeat
HB 525, introduced by Keane
HB 537, introduced by Lawson
HB 540, introduced by Gallik
HB 553, introduced by Gallik
HB 556, introduced by Gallik
HB 563, introduced by Laszloffy
HB 577, introduced by Brueggeman
HB 588, introduced by Matthews

Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/10/2003

HB 185, introduced by Wilson

SB 126 - The House acceded to the request of the Senate and authorized the Speaker to appoint a **Free** Conference Committee to meet with a like committee from the Senate to concur on **SB 126**. The Speaker appointed the following members:

4/10/2003

Representative Devlin, Chair
Representative Laslovich
Representative Waitschies

HB 424 - The House failed to concur in Senate amendments to **HB 424**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 424**:

4/10/2003

Representative Bitney, Chair
Representative Roberts
Representative Jent

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HB 680 - The House failed to concur in Senate amendments to **HB 680**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 680**:

4/10/2003

Representative Noennig, Chair
Representative Becker
Representative Younkin

HJR 31 - The House failed to concur in Senate amendments to **HJR 31**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HJR 31**:

4/10/2003

Representative B. Thomas, Chair
Representative Facey
Representative Stoker

MOTIONS

FREE CONFERENCE COMMITTEES

SB 326 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee, to confer on **SB 326**. Motion carried. The President appointed the following members:

Senator McGee, Chair
Senator Grimes
Senator Wheat

HB 304 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 304**. Motion carried. The President appointed the following members:

Senator Johnson, Chairman
Senator Stapleton
Senator Tropila

HB 509 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 509**. Motion carried. The President appointed the following members:

Senator Johnson, Chair
Senator Thomas
Senator McCarthy

HB 536 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 536**. Motion carried. The President appointed the following members:

Senator Perry, Chair

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Senator Black
Senator Mangan

HB 564 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 564**. Motion carried. The President appointed the following members:

Senator Mahlum, Chair
Senator Anderson
Senator Cocchiarella

HB 689 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 689**. Motion carried. The President appointed the following members:

Senator Gebhardt, Chair
Senator McNutt
Senator Squires

HB 720 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 720**. Motion carried. The President appointed the following members:

Senator Tash, Chair
Senator Bales
Senator Nelson

CONFERENCE COMMITTEES

HB 404 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 404**. Motion carried. The President appointed the following members:

Senator Grimes, Chair
Senator Perry
Senator Cromley

HB 433 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 433**. Motion carried. The President appointed the following members:

Senator Grimes
Senator Tash
Senator McCarthy

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on

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second reading. Motion carried. President Keenan retained the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 366 - House Amendments - Senator Grimes moved House amendments to **SB 366** be concurred in. Motion carried unanimously.

*****SB 362 - House Amendments** - Senator Grimes moved House amendments to **SB 362** be **not** concurred in. Motion carried unanimously.

Senator Grimes assumed the chair.

SB 247 - House Amendments - Senator Cobb moved House amendments to **SB 247** be concurred in. Motion carried unanimously.

SB 485 - Senator Keenan moved **SB 485**, second reading copy, be amended as follows:

1. Title, page 1, line 14.

Following: "ACCOUNT"

Insert: "AND ALLOCATING ACCOUNT PROCEEDS"

2. Page 2, line 23.

Strike: "State special revenue"

Insert: "Prevention and stabilization"

Following: "account"

Insert: "-- allocation of proceeds"

Following: "."

Insert: "(1)"

3. Page 2.

Following: "line 25"

Insert: "(2)(a) Funds in the prevention and stablization account must be used for the following programs in order of priority:

(i) prescription drugs for adults with a serious and disabling mental illness eligible for programs initiated pursuant to 53-21-702(2) and (3);

(ii) the Montana initiative for the abatement of mortality in infants administered pursuant to 50-19-301;

(iii) stabilization of rates for medicaid mental health services;

(iv) medicaid hospice services;

(v) extended employment;

(vi) independent living; and

(vii) home health therapy services.

(b) Funds remaining after allocations to the priorities in subsection (2)(a) may be expended for other programs as directed in 17-6-606(1)."

Amendment **adopted** unanimously.

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SB 485 - Senator Cobb moved **SB 485**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 42

Nays: Black, Cooney, Roush, Tester, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: Elliott, McGee, Shea.
Total 3

SB 348 - House Amendments - Senator Keenan moved House amendments to **SB 348** be concurred in. Motion carried unanimously.

*****SB 349 - House Amendments** - Senator Anderson moved House amendments to **SB 349** be **not** concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: Elliott, Shea.
Total 2

SB 387 - House Amendments - Senator Cobb moved House amendments to **SB 387** be concurred in. Motion carried unanimously.

SB 400 - House Amendments - Senator Toole moved House amendments to **SB 400** be concurred in. Motion carried unanimously.

SB 434 - House Amendments - Senator Tropila moved House amendments to **SB 434** be concurred in. Motion carried unanimously.

SB 46 - House Amendments - Senator Gebhardt moved House amendments to **SB 46** be concurred in. Motion carried unanimously.

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*****SB 62 - House Amendments** - Senator D. Ryan moved House amendments to **SB 62** be **not** concurred in. Motion carried unanimously.

*****SB 130 - House Amendments** - Senator McGee moved House amendments to **SB 130** be **not** concurred in. Motion carried unanimously.

SB 246 - House Amendments - Senator Glaser moved House amendments to **SB 246** be concurred in. Motion carried unanimously.

*****SB 252 - House Amendments** - Senator Squires moved House amendments to **SB 252** be **not** concurred in. Motion carried unanimously.

*****SB 304 - House Amendments** - Senator Johnson moved House amendments to **SB 304** be **not** concurred in. Motion carried unanimously.

SB 337 - House Amendments - Senator Tropila moved House amendments to **SB 337** be concurred in. Motion carried unanimously.

*****SB 347 - House Amendments** - Senator Keenan moved House amendments to **SB 347** be **not** concurred in. Motion carried unanimously.

*****SB 360 - House Amendments** - Senator F. Thomas moved House amendments to **SB 360** be **not** concurred in. Motion carried unanimously.

SB 364 - House Amendments - Senator Cooney moved House amendments to **SB 364** be concurred in. Motion carried unanimously.

SB 370 - House Amendments - Senator Gebhardt moved House amendments to **SB 370** be concurred in. Motion carried unanimously.

SB 383 - House Amendments - Senator Bales moved House amendments to **SB 383** be concurred in. Motion carried unanimously.

Senator Elliott present at this time.

SB 386 - House Amendments - Senator Gebhardt moved House amendments to **SB 386** be concurred in. Motion carried unanimously.

SB 392 - House Amendments - Senator Bales moved House amendments to **SB 392** be concurred in. Motion carried unanimously.

*****SB 395 - House Amendments** - Senator Perry moved House amendments to **SB 395** be **not** concurred in. Motion carried unanimously.

SB 402 - House Amendments - Senator Cocchiarella moved House amendments to **SB 402** be concurred in. Motion carried unanimously.

SB 406 - House Amendments - Senator McGee moved House amendments to **SB 406** be concurred in. Motion carried unanimously.

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SB 442 - House Amendments - Senator Stonington moved House amendments to **SB 442** be concurred in. Motion carried unanimously.

SB 444 - House Amendments - Senator Tester moved House amendments to **SB 444** be concurred in. Motion carried unanimously.

SJR 22 - House Amendments - Senator McGee moved House amendments to **SJR 22** be concurred in. Motion carried unanimously.

Senator Shea present at this time.

HB 452 - Senator Ellingson moved **HB 452** be concurred in. Motion carried with Senators Barkus, Glaser, Johnson, and Perry voting nay.

HB 539 - Senator Bohlinger moved **HB 539** be concurred in. Motion carried unanimously.

HB 558 - Senator Mahlum moved **HB 558** be concurred in. Motion carried unanimously.

HB 631 - Senator Laible moved **HB 631** be concurred in. Motion carried unanimously.

HB 721 - Senator Taylor moved **HB 721** be concurred in. Motion carried with Senators Esp and Perry voting nay.

HB 761 - Senator Wheat moved **HB 761** be concurred in. Motion carried with Senator O'Neil voting nay.

SJR 28 - Senator Bohlinger moved **SJR 28** do pass. Motion **failed** as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cromley, Ellingson, Glaser, Harrington, Johnson, Laible, Mahlum, McNutt, O'Neil, Pease, Perry, Sprague, Stapleton, Tash, Taylor, Thomas, Toole, Tropila, Wheat.
Total 24

Nays: Bales, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Grimes, Hansen, Kitzenberg, Mangan, McCarthy, McGee, Nelson, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tester, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 28 - Senator F. Thomas moved **SJR 28** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tester, Toole, Wheat, Zook, Mr. President.
Total 33

Nays: Anderson, Barkus, Black, Bohlinger, Cromley, Ellingson, Glaser, Johnson, Mahlum, O'Neil, Pease, Perry,

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Schmidt, Tash, Taylor, Thomas, Tropila.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 29 - Senator Toole moved **SJR 29** be adopted. Motion carried as follows:

Yeas: Anderson, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Mr. President.
Total 37

Nays: Bales, Barkus, Black, Curtiss, Elliott, Esp, Glaser, McNutt, Stapleton, Thomas, Zook.
Total 11

Absent or not voting: None.
Total 0

Excused: Gebhardt, Taylor.
Total 2

SJR 31 - Senator Tash moved **SJR 31** be adopted. Motion carried unanimously.

SB 340 - House Amendments - Senator McGee moved consideration of House amendments to **SB 340** be passed for the day. Motion carried unanimously.

*****SB 375 - House Amendments** - Senator Elliott moved House amendments to **SB 375** be **not** concurred in. Motion carried unanimously.

SB 381 - House Amendments - Senator Keenan moved House amendments to **SB 381** be concurred in. Motion carried unanimously.

*****SB 330 - House Amendments** - Senator Mangan moved House amendments to **SB 330** be **not** concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

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SB 35, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 95, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 194, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Wheat, Zook, Mr. President.

Total 38

Nays: Cooney, Cromley, Ellingson, Hansen, Mangan, Pease, Roush, Ryan, Schmidt, Stonington, Toole, Tropila.

Total 12

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 230, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 231, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 232, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 40

Nays: Cooney, Ellingson, Elliott, Johnson, Mangan, Schmidt, Squires, Tester, Toole, Wheat.
Total 10

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 244, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Cooney, Cromley, Nelson, Schmidt, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 263, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 270, as amended by the House, passed as follows:

Yeas: Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Tester, Toole, Tropila, Wheat.
Total 34

Nays: Anderson, Bales, Butcher, Curtiss, DePratu, Esp, Gebhardt, Grimes, McGee, Nelson, O'Neil, Story, Taylor,

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Thomas, Zook, Mr. President.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 275, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Cromley, Ellingson, Ryan, Squires, Tester.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 282, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 288, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea,

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Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 321, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Cromley, Ellingson, Tester, Toole.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 344, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 363, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 33

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, O'Neil, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Wheat.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 401, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 423, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 41

Nays: Cooney, Ellingson, Elliott, Hansen, Ryan, Schmidt, Squires, Tester, Toole.
Total 9

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 441, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 447, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Schmidt, Sprague, Stonington, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.
Total 36

Nays: Cobb, Cocchiarella, Cromley, Ellingson, Hansen, Harrington, Nelson, Ryan, Shea, Squires, Stapleton, Tester, Toole, Tropila.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 5, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 9 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Butcher, McGee, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 100 concurred in as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Anderson, Butcher, Esp, McGee, Stapleton, Taylor.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 249 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Stapleton.

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Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **SB 421, SB 490, HB 748, HJR 2.**

Correctly enrolled: **SB 111, SB 115, SR 4, SR 5.**

FINANCE AND CLAIMS (Zook, Chairman):

4/11/2003

HB 3, be amended as follows:

1. Page 1, line 22.

Strike: "\$2,497,863"

Insert: "\$1,325,762"

2. Page 1, line 28.

Strike: line 28 in its entirety

And, as amended, be concurred in. Report adopted.

HB 261, be amended as follows:

1. Title, line 9.

Strike: "\$8"

Insert: "\$5"

Strike: "\$15"

Insert: "\$10"

2. Title, line 12 through line 13.

Following: "LOAN" on line 12

Strike: remainder of line 12 through "PERMANENT" on line 13

3. Title, line 14.

Strike: "3-5-904,"

4. Title, line 15.

Following: "MCA,"

Strike: "SECTION 4, CHAPTER 361, LAWS OF 1995, SECTION 1, CHAPTER 71,, LAWS OF 1999,"

5. Page 3, line 26 through line 30.

Strike: section 1 in its entirety

Renumber: subsequent sections

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6. Page 7, line 4.

Strike: "\$13"

Insert: "\$10"

7. Page 7, line 5.

Strike: "\$13"

Insert: "\$10"

8. Page 7, line 7.

Strike: "\$8"

Insert: "\$5"

9. Page 10, line 14.

Strike: "\$13"

Insert: "\$10"

10. Page 10, line 15.

Strike: "\$13"

Insert: "\$10"

11. Page 10, line 17.

Strike: "\$8"

Insert: "\$5"

12. Page 13, line 17.

Strike: "\$13"

Insert: "\$10"

13. Page 13, line 18.

Strike: "\$13"

Insert: "\$10"

14. Page 13, line 19.

Strike: "\$8"

Insert: "\$5"

15. Page 17, line 19.

Strike: "\$15"

Insert: "\$10"

16. Page 17, line 21.

Strike: "\$15"

Insert: "\$10"

17. Page 19, line 19.

Strike: "\$15"

Insert: "\$10"

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18. Page 19, line 21.

Strike: "\$15"

Insert: "\$10"

19. Page 21, line 18.

Strike: "\$15"

Insert: "\$10"

20. Page 21, line 20.

Strike: "\$15"

Insert: "\$10"

21. Page 21, line 25.

Strike: "\$13"

Insert: "\$10"

22. Page 21, line 28.

Strike: "\$13"

Insert: "\$10"

23. Page 21, line 29.

Strike: "\$8"

Insert: "\$5"

24. Page 22, line 13.

Strike: "\$8"

Insert: "\$5"

25. Page 22, line 16 through line 17.

Following: "account" on line 16

Strike: remainder of line 16 through "(A)" on line 17

26. Page 22, line 19.

Strike: "(I)"

Insert: "(a)"

Renumber: subsequent subsection

27. Page 22, line 22 through line 24.

Strike: line 22 through "3-5-904" on line 24

28. Page 22, line 26 through page 23, line 3.

Strike: section 11 through section 12 in their entirety

Renumber: subsequent sections

29. Page 23, line 24 through line 26.

Strike: section 15 in its entirety

Insert: "NEW SECTION. Section 12. Coordination instruction. If House Bill No. 538 and [this act] are both passed and approved, then:

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(1) [Section 11] of [this act], amending section 9, Chapter 394, Laws of 2001, is void.

(2) [Section 9] of [this act] must read:

"Section 9. Section 61-3-550, MCA, is amended to read:

"61-3-550. (Temporary) Motor vehicle information technology system account. (1) There is a motor vehicle information technology system account in the state special revenue fund provided for in 17-2-102.

(2) Fees received by the department of revenue pursuant to 61-3-103 and \$5 of each fee received under 61-3-203 or 61-3-204 for a certificate of title must be deposited in the account.

(3) The money in the motor vehicle information technology system account must be appropriated by the legislature to the department of justice and must be used by the department for the purpose of:

(a) repaying any indebtedness or loan incurred for the creation of a new information technology system for motor vehicles; or

(b) payment of costs directly incurred in the creation and support of the new motor vehicle information technology system. ~~(Terminates June 30, 2011--sec. 9, Ch. 394, L. 2001.)"~~

"

Renumber: subsequent sections

30. Page 24, line 2.

Strike: "14"

Insert: "11"

31. Page 24, line 5.

Strike: "10"

Insert: "9"

And, as amended, be concurred in. Report adopted.

HB 722, be amended as follows:

1. Page 7.

Following: line 27

Insert: "(3) If House Bill No. 727 is passed and approved, [section 15 of this act] is void and the following money is appropriated to the department of public health and human services:

(a) from the general fund for the payment of the utilization fees created in [section 2]:

Fiscal year 2003 \$426,018

Fiscal year 2004 \$833,971

Fiscal year 2005 \$798,486

(b) from the state special revenue account in [section 14 of this act] for the purposes of financing, administering, and providing health and human services:

Fiscal year 2003 \$298,213

Fiscal year 2004 \$583,780

Fiscal year 2005 \$558,940

(c) from federal special revenue for the purposes of financing, administering, and providing health and human services:

Fiscal year 2003 \$1,114,118

Fiscal year 2004 \$2,176,598

Fiscal year 2005 \$2,046,753"

And, as amended, be concurred in. Report adopted.

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HB 744, be amended as follows:

1. Title, page 1, line 8.

Following: "POSSIBLE;"

Insert: "DIRECTING THE DEPARTMENT TO EVALUATE THE PROPOSED MEDICAID BLOCK GRANT AS PART OF REFINANCING ACTIVITIES AND REPORT FINDINGS AT EACH REGULAR MEETING OF THE LEGISLATIVE FINANCE COMMITTEE; DIRECTING THAT THE GOVERNOR MAY NOT OPT TO ACCEPT A MEDICAID BLOCK GRANT WITHOUT LEGISLATIVE CONSENT IF THE DECISION TO ACCEPT THE GRANT CAN BE DELAYED UNTIL THE NEXT REGULAR SESSION OF THE LEGISLATURE;"

2. Page 1.

Following: line 22

Insert: "NEW SECTION. Section 2. Evaluation of proposed medicaid block grant and acceptance of grant.

(1) As part of its refinancing duties, the department of public health and human services shall evaluate the proposed medicaid block grant and report its findings with respect to the criteria in subsection (2) to the legislative finance committee at each regular meeting of the committee.

(2) The department shall use the following criteria in its evaluation of the proposed medicaid block grant compared to other medicaid funding alternatives from which the state may choose:

(a) total cost to the state over the life of the block grant and during each year of the block grant compared to the state cost of maintaining medicaid eligibility and service levels funded by the legislature during the current biennium;

(b) types of flexibility;

(c) advantages and disadvantages; and

(d) policy choices that may occur.

(3)(a) The legislative finance committee shall review and analyze the department's findings and make a recommendation to the governor and to the department with regard to acceptance or rejection of the block grant if the state is required to make a decision as to whether to accept or reject the block grant prior to the next regular convening of the legislature.

(b) The governor shall consider the recommendation of the legislative finance committee and provide a written rationale to the committee if the recommendation of the committee is not followed.

(4) If federal laws allow the state to delay the decision as to whether to accept the medicaid block grant until the next regular session of the legislature, the governor may not opt to accept the medicaid block grant without legislative consent."

Renumber: subsequent sections

3. Page 2, line 12.

Following: "section"

Strike: "2"

Insert: "3"

4. Page 2, line 15.

Following: "section"

Strike: "2"

Insert: "3"

5. Page 4, line 27.

Following: "section"

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Strike: "2"
Insert: "3"

6. Page 5, line 20.
Following: "Sections"
Strike: "and 2"
Insert: "through 3"

7. Page 5, line 22.
Following: "sections"
Strike: "and 2"
Insert: "through 3"

And, as amended, be concurred in. Report adopted.

HB 767, be amended as follows:

1. Page 3, line 10 through line 11.
Following: "(a)"
Strike: remainder of line 10 through "description" on line 11
Insert: "the driver's or licensee's name, driver's license number, and date of birth"

2. Page 3, line 19 through line 20.
Following: "records" on line 19
Strike: remainder of line 19 through "furnished" on line 20
Insert: "a change in license status or conviction activity is to be reported"

3. Page 3, line 28.
Strike: "\$1"
Insert: "8 cents"

And, as amended, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):
SJR 32, introduced joint resolution, be amended as follows:

4/11/2003

1. Title, line 8.
Following: "THE"
Strike: "RELATIONSHIP BETWEEN"
Following: "COSTS"
Insert: "AND AVAILABILITY"
Following: "OF"
Strike: "PROFESSIONAL"

2. Title, line 9.
Following: "AND"
Insert: "HEALTH CARE"

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Following: "PROVIDERS"

Insert: "ASSOCIATED WITH HEALTH CARE FACILITIES"

3. Title, line 9 through line 10.

Strike: ", " on line 9 through "MONTANA" on line 10

4. Page 1, line 13.

Following: "cost of"

Strike: "professional"

5. Page 1, line 18.

Following: "provide"

Strike: "professional"

6. Page 1, line 20.

Following: "for"

Strike: "professional"

7. Page 1, line 21.

Following: "years,"

Strike: "are"

Insert: "may be"

8. Page 1, line 23.

Following: "for"

Strike: "professional"

Following: "and"

Insert: "health care"

Following: "providers"

Insert: "associated with health care facilities"

9. Page 1, line 24.

Following: line 23

Strike: "are"

Insert: "may be"

Following: "in"

Strike: "rural areas of"

10. Page 1, line 26 through line 27.

Strike: line 26 through line 27 in their entirety

11. Page 1, line 29.

Following: "for"

Strike: "professional"

12. Page 1, line 30.

Following: "and"

Insert: "health care"

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Following: "providers"

Insert: "associated with health care facilities"

13. Page 2, line 4.

Following: "the"

Strike: "relationship between"

Following: "costs"

Insert: "and availability"

Following: "of"

Strike: "professional"

14. Page 2, line 5.

Following: the first "and"

Insert: "health care"

15. Page 2, line 5 through line 6.

Following: "providers" on line 5

Strike: remainder of line 5 through "Montana" on line 6

Insert: "associated with health care facilities"

16. Page 2, line 7.

Following: "the"

Strike: "professional"

17. Page 2, line 8.

Following: "to"

Strike: "professional"

Following: "and"

Insert: "health care"

Following: "providers"

Insert: "associated with health care facilities"

18. Page 2, line 9.

Following: "increasing"

Strike: "access to"

Insert: "availability of"

19. Page 2, line 10.

Following: "coverage"

Strike: ", especially for health care facilities and providers in rural communities"

20. Page 2, line 11.

Following: the first "the"

Strike: "relationship between"

Insert: "factors affecting"

Following: the first "and"

Insert: "health care"

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Following: "providers"

Insert: "associated with health care facilities;"

21. Page 2, line 12.

Strike: "potential related tort reform measures;"

22. Page 2, line 13.

Strike: subsection (4) in its entirety

Renumber: subsequent subsection

23. Page 2, line 14 through line 15.

Following: "system" on line 14

Strike: remainder of line 14 through "Panel" on line 15

24. Page 2, line 18.

Following: the first "and"

Insert: "health care"

Following: "providers"

Insert: "associated with health care facilities"

And, as amended, be adopted. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

4/11/2003

PRELIMINARY REPORTS

SR 7, be adopted. Report adopted.

SR 8, be adopted. Report adopted.

SR 9, be adopted. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **House Bill 201**

Report No. 1, April 11, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 201** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 201** (reference copy -- salmon) be amended as follows:

1. Page 3, line 26.

Strike: "under this section"

Insert: "for a federal write-in absentee ballot"

2. Page 6, line 4.

Strike: ";

Insert: ". This information is sufficient to meet any identification requirements provided by law for an elector."

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3. Page 6, line 7.

Following: "ballot for"

Insert: "that election or for"

For the House:

D. Brown, Chairman

Jent

Wagman

For the Senate:

Sprague, Chairman

Gebhardt

Wheat

CONFERENCE COMMITTEE
on **House Bill 259**
Report No. 1, April 11, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered **House Bill 259** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 259** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 6.

Following: "~~BORDER~~"

Insert: "BETWEEN THE CANADIAN BORDER AND REFERENCE MARKER 133 NORTHWEST OF WHITEFISH"

2. Page 1, line 12.

Following: "61-8-310,"

Strike: "AND"

3. Page 1, line 13.

Following: "~~section,~~"

Insert: "and subsection (2) of this section,"

4. Page 1.

Following: line 22

Insert: "(2) The speed limit for vehicles traveling on U.S. highway 93 between reference marker 133 northwest of Whitefish and the Idaho border is 65 miles an hour at all times. The speed limit imposed by this subsection ceases to be effective if U.S. highway 93 is upgraded to a continuous four-lane highway."

Renumber: subsequent subsections

5. Page 1, line 26.

Strike: "SUBSECTION"

Insert: "subsections"

Following: "~~(2)~~"

Insert: "and (2)"

6. Page 2, line 1.

Strike: "SUBSECTION"

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Insert: "subsections"

Following: "~~(2)~~"

Insert: "and (2)"

For the House:

Maedje, Chairman
Lake
Gallik

For the Senate:

DePratu, Chairman
Curtiss
Cocchiarella

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 277**
Report No. 1, April 11, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 277** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that Senate amendments to **House Bill 277** (reference copy -- salmon) be accepted by the House.

For the House:

Younkin, Chairman
Haines
Lindeen

For the Senate:

Sprague, Chairman
Gebhardt
McCarthy

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 10, introduced by Cobb (by request of the Senate State Administration Standing Committee), referred to State Administration.

MOTIONS

HB 649 - Senator Elliott moved **HB 649** be taken from the Fish and Game committee, printed and placed on second reading. Motion **failed** on a voice vote.

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans, and thanked them for their work through the week.

**A PROCLAMATION OF THE SENATE AND THE HOUSE OF
REPRESENTATIVES OF THE STATE OF MONTANA**

WHEREAS, Parkinson's disease, a progressive disorder of the central nervous system, affects more than one million people in the United States; and

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WHEREAS, there is treatment to ease the symptoms, but there is not yet a cure; and

WHEREAS, the American Parkinson Disease Association, Inc., founded in 1961, has sought to "Ease the Burden and Find the Cure" for this disease through research, patient and family services, education and sponsorship of 65 chapters, 57 information and referral centers, and 800 support groups throughout the United States; and

WHEREAS, April 11th marks the birthday of Dr. James Parkinson who first recognized the disease now named for him; and

WHEREAS, the world and the nation will observe "Parkinson's Disease Awareness Month" in April 2003;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA: that April 2003 be proclaimed as Parkinson's Disease Awareness Month in the state of Montana.

BOB KEENAN
President of the Senate

DOUG MOOD
Speaker of the House

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:30 a.m., Saturday, April 12, 2003. Motion carried.

Senate adjourned at 5:08 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
SEVENTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 12, 2003

Senate Chambers
State Capitol

Senate convened at 8:30 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Taylor, excused. Quorum present.

The presiding officer has authenticated the daily journal for the seventy-eighth legislative day.

SPECIAL ORDERS OF THE DAY

Mr. Angelo Bianco of the Military Order of the Purple Heart was escorted to the well of the Senate, where he explained the origin of the Purple Heart medal. He said there were over 5,000 names in Montana that had been added to the Purple Heart roll, and was proud to state that Senator Wheat was a recipient. The Purple Heart is the longest standing medal in the United States Military, and he was proud to present a plaque to the Montana Legislature in honor of HB 250, which recommended a license plate honoring the combat wounded.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 491, SR 7, SR 8, SR 9.**

Correctly engrossed: **SB 485, SB 489, SJR 32,**

Correctly engrossed: **HB 3, HB 4, HB 11, HB 13, HB 18, HB 42, HB 90, HB 363, HB 559, HB 722, HB 744, HB 767.**

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on Senate Bill 57

Report No. 1, April 11, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 57** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 57** (reference copy -- salmon) be amended as follows:

1. Page 1, line 27.

Strike: "IMPAIRMENT"

Insert: "disorder"

2. Page 1, line 28.

Strike: "DISORDER OR"

Insert: "substantial"

3. Page 1, line 29.

Strike: "AFFLICTED"

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For the Senate:

Wheat, Chairman
Keenan
Mangan

For the House:

B. Thomas, Chairman
Gallus
Lange

MESSAGES FROM THE GOVERNOR

April 11, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 66** sponsored by Senator Bohlinger, **Senate Bill 77** sponsored by Senator Johnson, **Senate Bill 135** sponsored by Senator F. Thomas, **Senate Bill 145** sponsored by Senator Bohlinger, **Senate Bill 188** sponsored by Senator Cocchiarella et al., **Senate Bill 220** sponsored by Senator F. Thomas et al., and **Senate Bill 249** sponsored by Senator Taylor on April 11, 2003.

Sincerely,

JUDY MARTZ
Governor

April 11, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 101, **"AN ACT ALLOWING THE MONTANA HERITAGE PRESERVATION AND DEVELOPMENT COMMISSION TO USE THE SERVICES OF VOLUNTEERS; REQUIRING WORKERS' COMPENSATION COVERAGE FOR THE VOLUNTEERS; AUTHORIZING REIMBURSEMENT OF CERTAIN EXPENSES OF THE VOLUNTEERS; AUTHORIZING THE COMMISSION TO SELL REAL AND PERSONAL PROPERTY; AUTHORIZING THE COMMISSION TO ESTABLISH TRUST FUNDS; AUTHORIZING THE COMMISSION TO OBTAIN FEDERAL MONEY AND REQUIRING THE DEPOSIT OF THE FEDERAL MONEY INTO THE MONTANA HERITAGE**

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PRESERVATION AND DEVELOPMENT ACCOUNT; REQUIRING THE COMMISSION TO ESTABLISH A SUBCOMMITTEE OF COMMISSION MEMBERS AND MEMBERS OF THE MONTANA HISTORICAL SOCIETY BOARD; REQUIRING A MAJORITY VOTE OF THE SUBCOMMITTEE PRIOR TO SELLING PERSONAL PROPERTY FROM THE BOVEY ASSETS; REQUIRING THAT FUNDS RECEIVED FROM THE SALE OF PERSONAL PROPERTY FROM THE BOVEY ASSETS BE DEPOSITED IN A TRUST FUND; TRANSFERRING TITLE OF THE BOVEY ASSETS TO THE STATE OF MONTANA; AMENDING SECTIONS 17-2-102, 22-3-1003, AND 22-3-1004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE" for the following reasons:

Senate Bill No. 101 authorizes the Montana Heritage Preservation and Development Commission, among other things, to obtain federal money for the purchase of properties in Virginia City and Nevada City and restoration, maintenance and operation of these historic properties. And, generally accepted accounting principles (GAAP) require that funds received from federal sources be deposited in a federal special revenue fund and reported separately from other funds. The amendatory veto language will prevent the possibility of state and federal funds being commingled within the same accounting entity.

For these reasons, I have enclosed the following amendment. Please be advised that the Department of Commerce and the Department of Administration concur with this amendment. Further, please be advised that Senator Mahlum, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 101

1. Title, line 16.

Strike: "17-2-102,"

Following: "22-3-1003"

Strike: ", "

2. Page 1, line 21 through page 4, line 9.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 7, line 1.

Following: "fund"

Insert: "and in the federal special revenue fund"

4. Page 7, line 2.

Strike: "Unless otherwise prohibited by federal law or agreement, the"

Insert: "The"

5. Page 7, line 3.

Following: "into the"

Insert: "appropriate"

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6. Page 7, line 5.

Strike: "account"

Insert: "accounts"

7. Page 7, line 10.

Strike: "account is"

Insert: "accounts are"

8. Page 7, line 12.

Strike: "account"

Insert: "accounts"

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

4/11/2003

SB 271, introduced by Stapleton

Governor's amendments to House bills **concurred in** and transmitted to the Senate for concurrence in the Governor's amendments:

4/11/2003

HB 94, introduced by Lawson

HB 408, introduced by Peterson

HB 441, introduced by Cyr

Senate amendments to House bills **concurred in**:

4/11/2003

HB 152, introduced by Fisher

HB 159, introduced by Haines

HB 199, introduced by Harris

HB 484, introduced by R. Brown

HB 512, introduced by Sinrud

HB 517, introduced by Wilson

HB 538, introduced by Rome

HB 545, introduced by Haines

HB 609, introduced by Windy Boy

HB 640, introduced by Haines

HB 641, introduced by Haines

HB 648, introduced by Younkin

HB 667, introduced by Harris

HB 669, introduced by Younkin

HB 676, introduced by Lindeen

HB 677, introduced by Lindeen

HB 698, introduced by Gillan

HB 733, introduced by Schrumpf

HB 734, introduced by Lawson

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Senate amendments to House joint resolutions **concurred** in:

4/11/2003

HJR 4, introduced by Lange
HJR 8, introduced by Juneau
HJR 17, introduced by Peterson
HJR 29, introduced by Gallus
HJR 32, introduced by Haines

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. President Keenan retained the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 211 - Free Conference Committee Report No. 1 - Senator McGee moved the **Free** Conference Committee report to **HB 211** be adopted. Motion carried unanimously.

Senator McGee assumed the chair.

*****SB 340 - House Amendments** - Senator Grimes moved House amendments to **SB 340** be **not** concurred in. Motion carried unanimously.

HB 713 - Senator Black moved **HB 713** be concurred in. Motion **failed** as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, DePratu, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Schmidt, Sprague, Stapleton, Tash, Thomas, Mr. President.
Total 24

Nays: Bales, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Stonington, Story, Tester, Toole, Tropila, Wheat, Zook.
Total 24

Absent or not voting: None.
Total 0

Excused: Squires, Taylor.
Total 2

SB 489 - Senator Elliott moved **SB 489** do pass. Motion carried unanimously.

SB 491 - Senator Stonington moved **SB 491** do pass. Motion carried with Senator O'Neil voting nay.

HB 4 - Senator Zook moved **HB 4** be concurred in. Motion carried unanimously.

HB 7 - Senator Zook moved **HB 7** be concurred in. Motion carried unanimously.

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HB 10 - Senator Curtiss moved **HB 10** be concurred in. Motion carried unanimously.

HB 12, requiring 2/3 of each house - Senator Tropila moved **HB 12** be concurred in. Motion carried unanimously.

HB 13 - Senator McCarthy moved **HB 13** be concurred in. Motion carried unanimously.

HB 18 - Senator Laible moved **HB 18** be concurred in. Motion carried unanimously.

*****HB 87 - Governor's Amendments** - Senator Cobb moved Governor's amendments to **HB 87** be **not** concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

HB 185 - Governor's Amendments - Senator Anderson moved Governor's amendments to **HB 185** be concurred in. Motion carried unanimously.

HB 283 - Free Conference Committee Report No. 1 - Senator Sprague moved the **Free** Conference Committee report to **HB 283** be adopted. Motion carried unanimously.

HB 559 - Senator Glaser moved **HB 559**, second reading copy, be amended as follows:

1. Title, page 1, line 16, through line 18.
Strike: "REQUIRING" on line 16 through "PLATES;" on line 18
2. Title, page 1, line 19 through line 20.
Strike: "REVISING" on line 19 through "VEHICLES;" on line 20
3. Title, page 1, line 24.
Strike: "61-3-315,"
4. Title, page 1, line 25.
Strike: "61-3-561, 61-3-562,"
5. Page 2, line 22.
Strike: "BEGINNING IN FISCAL YEAR 2007,"

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6. Page 3, line 5.

Strike: "BEGINNING IN FISCAL YEAR 2007."

7. Page 3, line 25 through line 26.

Strike: "AND" on line 25 through "61-3-321" on line 26

8. Page 4, line 3.

Strike: "BEGINNING IN FISCAL YEAR 2007."

9. Page 29, line 4 through line 22.

Strike: section 32 in its entirety

Renumber: subsequent sections

10. (Deleted per clerical dated 4/14/03)

11. Page 54, line 17 through page 56, line 19.

Strike: sections 46 and 47 in their entirety

Renumber: subsequent sections

12. Page 57, line 3 through line 5.

Following: "INSTRUCTION." on line 3

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

Amendment **adopted** unanimously.

HB 559 - Senator Stonington moved **HB 559**, second reading copy, be further amended as follows:

1. Page 27, line 17.

Following: "quadricycle"

Insert: "[other than a motorcycle or quadricycle with special license plates issued under section 1 of House Bill No. 767]"

2. Page 31, line 5.

Following: ";;"

Insert: "[for a motorcycle or quadricycle with special license plates issued under section 1 of House Bill No. 767 and for a motorcycle or quadricycle under one-time registration, \$9.75]"

3. Page 31, line 24.

Following: "\$5"

Insert: "[for a motorcycle or quadricycle with special license plates issued under section 1 of House Bill No. 767 and for a motorcycle or quadricycle under one-time registration \$5]"

4. Page 51, line 1.

Following: "quadricycles"

Insert: "[that are subject to one-time registration]"

5. Page 52.

Following: line 4

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Insert: "[(2) The owner of a motorcycle or quadricycle with special license plates issued under section 1 of House Bill No. 767 shall pay an annual fee based on the age of the motorcycle or quadricycle and the size of the engine, according to the following schedule:

(a) The fee schedule for a motorcycle or quadricycle with an engine that measures from 1 cubic centimeter to 600 cubic centimeters is as follows:

- (i) less than 5 years old, \$30;
- (ii) 5 years old but less than 11 years old, \$15; and
- (iii) 11 years old and older, \$6.

(b) The fee schedule for a motorcycle or quadricycle with an engine that measures from 601 cubic centimeters to 1,000 cubic centimeters is as follows:

- (i) less than 5 years old, \$55;
- (ii) 5 years old but less than 11 years old, \$20; and
- (iii) 11 years old and older, \$6.

(c) The fee schedule for a motorcycle or quadricycle with an engine that measures 1,001 cubic centimeters and larger is as follows:

- (i) less than 5 years old, \$90;
- (ii) 5 years old but less than 11 years old, \$50; and
- (iii) 11 years old and older, \$6.

(3) (a) Except as provided in subsection (3)(b), the age of a motorcycle or quadricycle is determined by subtracting the manufacturer's designated model year from the current calendar year.

(b) If the purchase year of a motorcycle or quadricycle precedes the designated model year of the motorcycle or quadricycle and the motorcycle or quadricycle is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.]"

6. Page 61, line 2.

Insert: "(6) If House Bill No. 767 is not passed and approved, then the bracketed language in the following sections of [this act] is void:

- (a) [section 28] amending 61-3-303(6)(a);
- (b) [section 34] amending 61-3-321(1)(h) and (3); and
- (c) [section 42] amending 61-3-527."

Amendment **adopted** unanimously.

HB 559 - Senator Glaser moved **HB 559**, as amended, be concurred in. Motion carried unanimously.

HB 748 - Senator Bales moved **HB 748** be concurred in. Motion carried unanimously.

HB 363 - Senator Keenan moved **HB 363**, second reading copy, be amended as follows:

1. Title, line 10.

Strike: "TRANSFERRING"

Insert: "AUTHORIZING THE TRANSFER"

2. Title, line 11.

Following: "FUND"

Insert: "OF"

3. Page 2, lines 22 and 23.

Following: "2004" on line 22

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Insert: ", "

Strike: remainder of line 22 through "I" on line 23

4. Page 2, lines 24 through 26.

Following: "FUND" on line 24

Strike: remainder of line 24 through "1990" on line 26

5. Page 2, line 27.

Following: "2005"

Strike: " , "

Insert: ":(i)"

6. Page 2, line 28.

Following: "FUND"

Insert: "; and

(ii) up to \$30 million may be transferred to the general fund from the reserves for claims for injuries that occurred before July 1, 1990"

7. Page 3, line 5.

Strike: "(5)(B)(II)"

Insert: "(5)(c)(ii)"

8. Page 3, line 20.

Following: "FUND."

Insert: "The budget director may determine the timing and amount of the transfers authorized in 39-71-2352(5)(c)(ii)."

Amendment **adopted** unanimously.

HB 363 - Senator Keenan moved **HB 363**, as amended, be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Thomas, Zook, Mr. President.

Total 28

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 21

Absent or not voting: None.

Total 0

Excused: Taylor.

Total 1

HB 3 - Senator McCarthy moved **HB 3** be concurred in. Motion carried unanimously.

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HB 744 - Senator Stonington moved **HB 744** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 46, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Anderson, Grimes, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 246, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 247, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy,

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McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Ellingson, Elliott, Hansen, Tester, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 337, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Tropila, Zook, Mr. President.
Total 46

Nays: Ellingson, Toole, Wheat.
Total 3

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 348, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

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SB 364, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Cromley.
Total 1

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 366, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Shea, Sprague, Stapleton, Story, Tash, Tester, Thomas, Zook, Mr. President.
Total 37

Nays: Cooney, Cromley, Ellingson, Hansen, Pease, Ryan, Schmidt, Squires, Stonington, Toole, Tropila, Wheat.
Total 12

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 370, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

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SB 381, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 383, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Tester, Thomas, Tropila, Zook, Mr. President.
Total 40

Nays: Bohlinger, Cobb, Cooney, Cromley, Ellingson, Pease, Stonington, Toole, Wheat.
Total 9

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 386, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Thomas, Tropila, Zook, Mr. President.
Total 39

Nays: Cooney, Cromley, Ellingson, Elliott, Harrington, Schmidt, Stonington, Tester, Toole, Wheat.
Total 10

Absent or not voting: None.
Total 0

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Excused: Taylor.
Total 1

SB 387, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Elliott, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 392, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Ellingson.
Total 1

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 400, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 402, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: O'Neil, Stapleton, Story.
Total 3

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 406, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 421 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 434, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 442, as amended by the House, passed as follows:

Yeas: Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 38

Nays: Anderson, Bales, Butcher, Cobb, Curtiss, Esp, Kitzenberg, McGee, O'Neil, Stapleton, Story.
Total 11

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 444, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea,

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Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Stapleton.
Total 1

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SB 490 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Zook, Mr. President.
Total 47

Nays: Mangan, Wheat.
Total 2

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SJR 22, as amended by the House, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Pease, Perry, Roush, Shea, Sprague, Story, Tash, Thomas, Zook, Mr. President.
Total 31

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, McCarthy, Nelson, Ryan, Schmidt, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 18

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SJR 29 adopted as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, DePratu, Ellingson, Glaser, Grimes,

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Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 38

Nays: Bales, Cocchiarella, Curtiss, Elliott, Esp, Gebhardt, Harrington, McGee, Shea, Stapleton, Thomas.
Total 11

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

SJR 31 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Esp, Grimes.
Total 2

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

HB 2, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Paired: Taylor, Aye; Bohlinger, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 452, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 41

Nays: Barkus, Cobb, Glaser, Johnson, McGee, Perry, Stapleton, Thomas.
Total 8

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

HB 539, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

HB 558, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Bales, Esp, Story.
Total 3

Absent or not voting: None.
Total 0

Excused: Taylor.

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Total 1

HB 631 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

HB 721, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 43

Nays: Curtiss, Esp, Glaser, Perry, Stapleton, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: Taylor.
Total 1

HB 761 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Esp, O'Neil.
Total 2

Absent or not voting: None.
Total 0

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Excused: Taylor.
Total 1

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 4/12/2003

SB 89, introduced by Tash
SB 243, introduced by Wheat
SB 454, introduced by Story
SB 458, introduced by McNutt

HB 190 - The House **failed to concur** in Senate amendments to **HB 190**, authorized the Speaker to appoint the following **Conference** Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 190**:

4/12/2003

Representative Younkin, Chair
Representative Hurwitz
Representative Windy Boy

MOTIONS

HB 188 - Senator Thomas moved to suspend the rules to allow the late introduction of a bill to correct an error in **HB 188**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Sprague, Stapleton, Tash, Tester, Thomas, Toole, Zook, Mr. President.
Total 38

Nays: Elliott, Mangan, McGee, Ryan, Squires, Story, Tropila, Wheat.
Total 8

Absent or not voting: None.
Total 0

Excused: Kitzenberg, Shea, Stonington, Taylor.
Total 4

FREE CONFERENCE COMMITTEES

SB 62 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 62**. Motion carried. The President appointed the following members:

Senator Taylor, Chair
Senator Stapleton
Senator Ryan

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SB 130 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 130**. Motion carried. The President appointed the following members:

Senator McGee, Chair
Senator Barkus
Senator Cooney

SB 360 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 360**. Motion carried. The President appointed the following members:

Senator Thomas, Chair
Senator Johnson
Senator Cocchiarella

CONFERENCE COMMITTEES

SB 252 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee to **SB 252**, and request the House to appoint a like committee to confer on House amendments to **SB 252**. Motion carried. The President appointed the following members:

Senator Butcher, Chair
Senator Stapleton
Senator Squires

SB 330 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee to **SB 330**, and request the House to appoint a like committee to confer on House amendments to **SB 330**. Motion carried. The President appointed the following members:

Senator Stapleton, Chair
Senator Johnson
Senator Mangan

SB 340 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee to **SB 340**, and request the House to appoint a like committee to confer on House amendments to **SB 340**. Motion carried. The President appointed the following members:

Senator Grimes, Chair
Senator McGee
Senator Wheat

SB 349 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee to **SB 349**, and request the House to appoint a like committee to confer on House amendments to **SB 349**. Motion carried. The President appointed the following members:

Senator Anderson, Chair
Senator Mahlum
Senator Cocchiarella

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SB 362 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee to **SB 362**, and request the House to appoint a like committee to confer on House amendments to **SB 362**. Motion carried. The President appointed the following members:

Senator Grimes, Chair
Senator Perry
Senator Mangan

SB 375 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee to **SB 375**, and request the House to appoint a like committee to confer on House amendments to **SB 375**. Motion carried. The President appointed the following members:

Senator Stapleton, Chair
Senator Perry
Senator Elliott

SB 395 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee to **SB 395**, and request the House to appoint a like committee to confer on House amendments to **SB 395**. Motion carried. The President appointed the following members:

Senator Perry, Chair
Senator Barkus
Senator Shea

HB 190 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 190**. Motion carried. The President appointed the following members:

Senator Cobb, Chair
Senator Sprague
Senator Squires

HB 424 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 424**. Motion carried. The President appointed the following members:

Senator Taylor, Chair
Senator Stapleton
Senator Ryan

HB 680 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 680**. Motion carried. The President appointed the following members:

Senator Sprague, Chair
Senator Gebhardt
Senator Wheat

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HJR 31 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HJR 31**. Motion carried. The President appointed the following members:

Senator Esp, Chair
Senator Cobb
Senator Schmidt

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, April 14, 2003. Motion carried.

Senate adjourned at 12 noon.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTIETH LEGISLATIVE DAY**

Helena, Montana
April 14, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the seventy-ninth legislative day.

SPECIAL ORDERS OF THE DAY

Home School students from Three Forks, Willow Creek and Cardwell entertained the Senate with several musical selections on their fiddles. The Headwaters Junior Fiddlers have been together for about 4 years and entertain at various functions.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SR 10.**

Examined by the sponsor and found to be correct: **SB 34, SB 65, SB 76, SB 80, SB 86, SB 98, SB 105, SB 110, SB 111, SB 113, SB 115, SB 137, SB 143, SB 146, SB 152, SB 159, SB 209, SB 226, SB 284, SB 389, SB 429, SB 432, SB 450.**

Signed by the President at 9:00 a.m., April 11, 2003: **SB 34, SB 76, SB 80, SB 86, SB 98, SB 105, SB 110, SB 113, SB 137, SB 143, SB 146, SB 152, SB 159, SB 209, SB 226, SB 284, SB 389, SB 429, SB 432, SB 450.**

Signed by the President at 10:00 a.m., April 12, 2003: **SB 65, SB 111, SB 115.**

Signed by the Secretary of the Senate at 10:00 a.m., April 11, 2003: **SB 34, SB 76, SB 80, SB 86, SB 98, SB 105, SB 110, SB 113, SB 137, SB 143, SB 146, SB 152, SB 159, SB 209, SB 226, SB 284, SB 389, SB 429, SB 432, SB 450.**

Signed by the Secretary of the Senate at 8:00 a.m., April 14, 2003: **SB 65, SB 111, SB 115.**

Signed by the Speaker at 11:35 a.m., April 11, 2003: **SB 34, SB 76, SB 80, SB 86, SB 98, SB 105, SB 110, SB 113, SB 137, SB 143, SB 146, SB 152, SB 159, SB 209, SB 226, SB 284, SB 389, SB 429, SB 432, SB 450.**

Signed by the Speaker at 8:30 a.m., April 14, 2003: **SB 65, SB 111, SB 115.**

Delivered to the Governor for approval at 7:20 a.m., April 14, 2003: **SB 34, SB 76, SB 80, SB 86, SB 98, SB 105, SB 110, SB 113, SB 137, SB 143, SB 146, SB 152, SB 159, SB 209, SB 226, SB 284, SB 389, SB 429, SB 432, SB 450.**

Delivered to the Governor for approval at 10:00 a.m., April 14, 2003: **SB 65, SB 111, SB 115.**

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

4/14/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 12 noon, Saturday, April 12, 2003:

TITLE

NAME

Pages:

Kacee Tash, Dillon, MT
Colin Dow, Billings, MT
Drew Cummings, Lewistown, MT

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Matthew Best, Gt. Falls, MT
Breanna Wilson, Missoula, MT
Hannah Jacoby, Bozeman, MT
Joshua York, Polson, MT
Chance Dupuis Polson, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, April 14, 2003:

<u>TITLE</u>	<u>NAME</u>	<u>SPONSOR</u>
Pages:	Halley Montalban, Billings, MT	Senator Bohlinger
	Brad Foster, Townsend, MT	Senator Grimes
	Alexandra Lane, Missoula, MT	Senator Squires
	Heather Stricker, Laurel, MT	Senator McGee
	Hannah Lee, Missoula, MT	Senator Cocchiarella

Report Adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McCarthy in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 42 - Senator Tash moved **HB 42** be concurred in. Motion carried with Senators Cooney and Toole voting nay.

HB 713 - Senator Black moved **HB 713** be concurred in. Motion **failed** as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Johnson, Laible, Mahlum, McGee, O'Neil, Perry, Tash, Taylor, Thomas, Tropila.
Total 19

Nays: Bales, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Grimes, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tester, Toole, Wheat, Zook, Mr. President.
Total 29

Absent or not voting: None.
Total 0

Excused: Pease, Stapleton.
Total 2

HB 713 - Senator F. Thomas moved **HB 713** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen,

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Harrington, Johnson, Kitzenberg, Laible, McCarthy, McNutt, Nelson, O'Neil, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tester, Toole, Wheat, Zook, Mr. President.

Total 34

Nays: Anderson, Black, Bohlinger, Butcher, Curtiss, DePratu, Glaser, Mahlum, Mangan, McGee, Perry, Tash, Taylor, Thomas, Tropila.

Total 15

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 57 - Free Conference Committee Report No. 1 - Senator Keenan moved the **Free** Conference Committee report to **SB 57** be adopted. Motion carried unanimously.

SB 101 - Governor's Amendments - Senator Mahlum moved Governor's amendments to **SB 101** be concurred in. Motion carried unanimously.

*****SB 271 - House Amendments** - Senator Stapleton moved House amendments to **SB 271** be **not** concurred in. Motion carried unanimously.

SJR 18 - House Amendments - Senator Harrington moved House amendments to **SJR 18** be concurred in. Motion carried unanimously.

SJR 32 - Senator Grimes moved **SJR 32** be adopted. Motion carried unanimously.

HJR 2 - Senator Story moved **HJR 2** be concurred in. After discussion, Senator Ellingson moved **HJR 2**, second reading copy, be amended as follows:

1. Page 2, line 14 through line 16.

Strike: "; and" on line 14 through "condition" on line 16

2. Page 2, line 20.

Strike: "\$1,241,443,000"

Insert: "\$1,228,915,000"

Strike: "\$1,296,456,000"

Insert: "\$1,283,928,000"

3. Page 3, line 6 through line 8.

Strike: "EXCEPT" on line 6 through "Division." on line 8

4. Page 3, line 15.

Strike: "\$556.874"

Insert: "\$550.238"

Strike: "\$594.339"

Insert: "\$587.703"

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5. Page 3, line 19.

Strike: "182.196"

Insert: "181.228"

Strike: "192.538"

Insert: "191.570"

6. Page 3, line 21.

Strike: "74.540"

Insert: "75.803"

Strike: "75.581"

Insert: "76.844"

7. Page 4, line 2.

Strike: "64.782"

Insert: "58.315"

Strike: "69.223"

Insert: "62.756"

8. Page 4, line 6.

Strike: "44.755"

Insert: "45.557"

Strike: "45.811"

Insert: "46.613"

9. Page 4, line 16.

Strike: "7.516"

Insert: "8.378"

Strike: "4.625"

Insert: "5.487"

10. Page 4, line 18.

Strike: "14.600"

Insert: "16.960"

Strike: "14.469"

Insert: "16.829"

11. Page 4, line 20.

Strike: "14.060"

Insert: "10.316"

Strike: "17.331"

Insert: "13.587"

12. Page 5, line 20.

Strike: "\$1,241.443"

Insert: "\$1,228.915"

Strike: "\$1,296.456"

Insert: "\$1,283.928"

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Amendment **not** adopted as follows:

Yeas: Bohlinger, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Hansen, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Sprague, Squires, Toole, Wheat.

Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Laible, Mahlum, McGee, McNutt, Perry, Shea, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 2 - Senator Story's motion that **HJR 2** be concurred passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, Pease, Perry, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 34

Nays: Bohlinger, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, O'Neil, Roush, Ryan, Schmidt, Shea, Toole, Wheat.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 11 - Senator Tropila moved **HB 11** be concurred in. Motion carried unanimously.

HB 261 - Senator Stapleton moved **HB 261** be concurred in. Motion carried with Senator Taylor voting nay.

HB 722 - Senator Cobb moved **HB 722** be concurred in. Motion carried unanimously.

HB 767 - Senator Stonington moved **HB 767** be concurred in. Motion carried unanimously.

HB 201 - Free Conference Committee Report No. 1 - Senator Sprague moved the **Free** Conference Committee report to **HB 201** be adopted. Motion carried unanimously.

HB 277 - Conference Committee Report No. 1 - Senator Sprague moved the Conference Committee report to **HB 277** be adopted. Motion carried unanimously.

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HB 259 - Conference Committee Report No. 1 - Senator DePratu moved the Conference Committee report to **HB 259** be adopted. Motion carried unanimously.

HB 94 - Governor's Amendments - Senator Gebhardt moved Governor's amendments to **HB 94** be concurred in. Motion carried unanimously.

HB 408 - Governor's Amendments - Senator Esp moved Governor's amendments to **HB 408** be concurred in. Motion carried unanimously.

HB 441 - Governor's Amendments - Senator Black moved Governor's amendments to **HB 441** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Pro Tempore McNutt in the chair. Chairman McCarthy moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 485 passed as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook.
Total 43

Nays: Black, Cooney, Elliott, Roush, Tester, Toole.
Total 6

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

SB 489 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 491 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 3, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 4, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 7 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 10 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 12, requiring 2/3 of each House, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 13, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Cocchiarella, Ellingson, Mangan.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 18, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 46

Nays: Bales, Gebhardt, Stapleton, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 185, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 49

Nays: Curtiss.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 211, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 283, as amended by the Free Conference Committee Report No. 1, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 744, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan,

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McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 748, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Zook, Chairman):

4/14/2003

SB 492, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **Senate Bill 126**

Report No. 1, April 12, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 126** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

1. House Committee on Taxation amendments, third reading copy, dated March 19, 2003.

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And, recommend that **Senate Bill 126** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 9.

Following: "EXEMPTION."

Insert: "CLARIFYING PROPERTY TAX PROVISIONS RELATING TO INSURANCE COMPANIES BY
REPEALING SPECIFIC LAWS THAT ARE REDUNDANT WITH GENERAL PROPERTY TAX LAWS;"

2. Title, page 1, line 10.

Following: line 9

Strike: "AND"

3. Title, page 1, line 11.

Following: "1999"

Insert: "; AND REPEALING SECTIONS 15-24-601 AND 15-24-602, MCA"

4. Page 15, line 6.

Insert: "NEW SECTION. **Section 4. Repealer.** Sections 15-24-601 and 15-24-602, MCA, are repealed."

Renumber: subsequent section

For the Senate:

Story, Chairman
Black
Toole

For the House:

Devlin, Chairman
Laslovich
Waitschies

FREE CONFERENCE COMMITTEE
on **House Bill 298**
Report No. 1, April 14, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 298** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 298** (reference copy -- salmon) be amended as follows:

1. Title, line 5.

Following: "~~A~~FEE"

Insert: "FEES"

2. Title, line 6.

Strike: "CERTAIN COSTS OF A REVIEW"

Insert: "AN EXAMINATION"

Strike: "DIVISIONS"

Insert: "A DIVISION"

Following: "LAND"

Insert: "TO DETERMINE WHETHER IT IS"

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3. Page 1, line 13.

Strike: "ACTUAL COSTS"

Insert: "fees for examination of division"

4. Page 1, line 30 through page 2, line 1.

Strike: "COLLECT" on page 1, line 30 through "76-3-611(2)(A)" on page 2, line 1

Insert: "examine a division of land to determine whether or not the requirements of this chapter apply to the division and may establish reasonable fees, not to exceed \$200, for the examination"

5. Page 2, line 5.

Strike: "ACTUAL COSTS"

Insert: "fees for examination of division"

6. Page 3, lines 2 and 3.

Strike: "COLLECT" on line 2 through "76-3-611(2)(A)"

Insert: "examine a division of land to determine whether or not the requirements of this chapter apply to the division and may establish reasonable fees, not to exceed \$200, for the examination"

For the House:

Younkin, Chairman
Jacobson
Noennig

For the Senate:

Gebhardt, Chairman
McGee
Wheat

FREE CONFERENCE COMMITTEE
on **House Bill 564**
Report No. 1, April 14, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 564** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 564** (reference copy -- salmon) be amended as follows:

1. Page 5, line 27.

Strike: "at least 110% of"

For the House:

McKenney, Chairman
Lange
Lindeen

For the Senate:

Mahlum, Chairman
Anderson
Cocchiarella

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MOTIONS

CONFERENCE COMMITTEES

SB 304 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee to **SB 304**, and request the House to appoint a like committee to confer on House amendments to **SB 304**. Motion carried. The President appointed the following members:

Senator Johnson, Chair
Senator Anderson
Senator Cocchiarella

SB 347 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee to **SB 347**, and request the House to appoint a like committee to confer on House amendments to **SB 347**. Motion carried. The President appointed the following members:

Senator Esp, Chair
Senator Keenan
Senator Stonington

FREE CONFERENCE COMMITTEES

SB 252 - Senator Thomas moved the Conference Committee on **SB 252** be dissolved and that the President be authorized to appoint a **Free** Conference committee to **SB 252**, and request the House to appoint a like committee to confer on **SB 252**. Motion carried. The President appointed the following members:

Senator Butcher, Chair
Senator Stapleton
Senator Squires

SB 271 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee to **SB 271**, and request the House to appoint a like committee to confer on **SB 271**. Motion carried. The President appointed the following members:

Senator Glaser, Chair
Senator Stapleton
Senator Elliott

SB 326 - Senator Thomas moved the **Free** Conference Committee on **SB 326** be dissolved and that the President be authorized to appoint a **Free** Conference committee to **SB 326**, and request the House to appoint a like committee to confer on **SB 326**. Motion carried. The President appointed the following members:

Senator McGee, Chair
Senator Laible
Senator Wheat

HJR 31 - Senator Thomas moved the Senate accede to the request of the House that the Conference Committee on **HJR 31** be dissolved and that the President be authorized to appoint a **Free** Conference committee to **HJR 31**, to meet with a like committee to confer on **HJR 31**. Motion carried. The President appointed the following members:

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Senator Esp, Chair
Senator Cobb
Senator Schmidt

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, April 15, 2003. Motion carried.

Senate adjourned at 3:49 a.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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58TH LEGISLATURE
EIGHTY-FIRST LEGISLATIVE DAY**

Helena, Montana
April 15, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the eightieth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **HB 363, HB 559.**

Correctly enrolled: **SB 35, SB 46, SB 89, SB 194, SB 230, SB 232, SB 243, SB 244, SB 246, SB 247, SB 263, SB 270, SB 275, SB 282, SB 288, SB 321, SB 337, SB 344, SB 360, SB 363, SB 364, SB 370, SB 381, SB 383, SB 386, SB 387, SB 392, SB 400, SB 406, SB 423, SB 434, SB 441, SB 442, SB 444, SB 447, SB 458.**

Examined by the sponsor and found to be correct: **SR 4, SR 5.**

Signed by the President at 10:00 a.m., April 12, 2003: **SR 4, SR 5.**

Signed by the Secretary of the Senate at 8:00 a.m., April 14, 2003: **SR 4, SR 5.**

Delivered to the Secretary of State at 9:05 a.m., April 15, 2003: **SR 4, SR 5.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
SJR 30, introduced joint resolution, be amended as follows:

4/15/2003

1. Title, line 6 through 11.

Following: "EXAMINE" on line 6

Strike: remainder of line 6 through line 11

2. Title, line 13.

Following: line 12

Insert: "URGING MONTANA STATE UNIVERSITY TO REPORT RESEARCH RESULTS TO THE LEGISLATURE RELATED TO THE SAFETY OF GENETICALLY ENGINEERED GRAINS AND RELATED ISSUES; URGING THE OFFICE OF ECONOMIC DEVELOPMENT TO EXPLORE AND PROMOTE APPROPRIATE BIOTECHNOLOGY OPPORTUNITIES FOR MONTANA AGRICULTURAL PRODUCERS;"

3. Page 1, line 23.

Strike: "a majority"

Insert: "some"

4. Page 1, line 24.

Following: "markets"

Insert: "; and

WHEREAS, biotechnology holds great promise for the future in fighting grain diseases and in providing new niche markets similar to the present market for organic products; and

WHEREAS, questions continue to be raised about the safety of genetically engineered crops, necessitating scientific research to provide answers to those questions; and

WHEREAS, programs at Montana State University may provide the research not only to address safety, but also

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to provide recommendations regarding new genetically engineered grain varieties, the advisability and timing of their release, and the proper handling, production, transportation, marketing, testing, and disposition of new varieties; and

WHEREAS, the Office of Economic Development is an appropriate state agency to explore and promote biotechnology opportunities for Montana producers; and

WHEREAS, the Legislature desires to document credible findings regarding genetically engineered grains"

5. Page 1, line 29 through page 2, line 7.

Following: "examine" on line 29

Strike: remainder of line 29 through "(4)" on page 2, line 7

6. Page 2, line 9 through line 10.

Following: "study" on line 9

Strike: remainder of line 9 through "(1)" on line 10

7. Page 2, line 11.

Following: "representatives of"

Insert: "university and"

8. Page 2, line 12 through line 13.

Following: "entities" on line 12

Strike: remainder of line 12 through "Montana" on line 13

9. Page 2.

Following: line 13

Insert: "BE IT FURTHER RESOLVED, that the scope of the study include a review of any relevant studies from other sources.

BE IT FURTHER RESOLVED, that the study recommend any necessary coordination with applicable federal laws and consider laws of other states that may relate to the introduction of genetically engineered grains in Montana.

BE IT FURTHER RESOLVED, that Montana State University be urged to report to the study committee and to the agriculture committees of the 58th Legislature prior to September 15, 2004, regarding research efforts related to safety, new genetically engineered grain varieties, the advisability and timing of release, and the proper handling, production, transportation, marketing, testing, and disposition of new varieties, as well as any efforts to obtain federal funding to achieve the goals of this resolution for the benefit of Montana producers.

BE IT FURTHER RESOLVED, that the Office of Economic Development be urged to explore and promote appropriate biotechnology opportunities for Montana agricultural producers."

And, as amended, be adopted. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

4/15/2003

HB 489, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

4/15/2003

SR 7, be adopted. Report adopted.

SR 8, be adopted. Report adopted.

SR 9, be adopted. Report adopted.

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PRELIMINARY REPORT

SR 10, be adopted. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **House Joint Resolution 31**

Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Joint Resolution 31** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Joint Resolution 31** (reference copy -- salmon) be amended as follows:

1. Page 2, line 7.

Strike: "FOR GOOD CAUSE, ALLOW FOR THE REASONABLE EXTENSION OF"

Insert: "not count against"

2. Page 2, line 8.

Following: "assistance"

Insert: ", but it is not the intent of the Legislature to extend the 5-year limit on TANF assistance"

For the House:

B. Thomas, Chairman
Facey
Stoker

For the Senate:

Esp, Chairman
Cobb
Schmidt

MESSAGES FROM THE GOVERNOR

April 14, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 180** sponsored by Senator D. Ryan et al., **Senate Bill 283** sponsored by Senator Wheat, **Senate Bill 302** sponsored by Senator McCarthy et al., **Senate Bill 329** sponsored by Senator Mangan, **Senate Bill 331** sponsored by Senator Squires, and **Senate Bill 409** sponsored by Senator Stapleton et al. on April 14, 2003.

Sincerely,
JUDY MARTZ
Governor

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MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/14/2003

SB 314, introduced by McCarthy

SB 424, introduced by Nelson

Senate amendments to House bill **concurred in**:

4/15/2003

HB 701, introduced by Newman

House joint resolution passed and transmitted to the Senate for concurrence:

4/14/2003

HJR 36, introduced by Pattison

SB 304 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 304**:

4/14/2003

Representative Lewis, Chair

Representative Morgan

Representative Wilson

SB 330 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 330**:

4/14/2003

Representative Bitney, Chair

Representative Fuchs

Representative B. Ryan

SB 340 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 340**:

4/14/2003

Representative Barrett, Chair

Representative Everett

Representative Gutsche

SB 347 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 347**:

4/14/2003

Representative E. Clark, Chair

Representative Franklin

Representative Gallus

SB 349 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 349**:

4/14/2003

Representative Steinbeisser, Chair

Representative Keane

Representative Rome

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SB 362 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 362**:

4/14/2003

Representative Shockley, Chair
Representative Parker
Representative Sales

SB 375 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 375**:

4/14/2003

Representative Barrett, Chair
Representative Brueggeman
Representative Harris

SB 395 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 395**:

4/14/2003

Representative Balyeat, Chair
Representative Golie
Representative Wagman

SB 62 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 62**:

4/14/2003

Representative Laszloffy, Chair
Representative Carney
Representative Mendenhall

SB 130 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 130**:

4/14/2003

Representative Peterson, Chair
Representative Lawson
Representative Matthews

SB 252 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 252**:

4/14/2003

Representative Sinrud, Chair
Representative Gibson
Representative B. Olson

SB 271 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 271**:

4/14/2003

Representative Brueggeman, Chair
Representative Pattison
Representative Wanzenried

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SB 326 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 326**:

4/14/2003

Representative Younkin, Chair
Representative Everett
Representative Gillan

SB 360 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 360**:

4/14/2003

Representative McKenney, Chair
Representative Fisher
Representative Wilson

HB 190 - The House dissolved the Conference Committee on Senate amendments to **HB 190**, authorized the Speaker to appoint a **Free** Conference Committee, and request the Senate to appoint a like committee to confer on **HB 190**:

4/14/2003

Representative Younkin, Chair
Representative Hurwitz
Representative Windy Boy

HJR 31 - The House dissolved the Conference Committee on Senate amendments to **HJR 31**, authorized the Speaker to appoint a **Free** Conference Committee, and request the Senate to appoint a like committee to confer on **HJR 31**:

4/14/2003

Representative B. Thomas, Chair
Representative Facey
Representative Stoker

MOTIONS

SB 375 - Senator Thomas moved the Conference Committee to **SB 375** be dissolved and that the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 375**. Motion carried. The President appointed the following members:

Senator Stapleton, Chair
Senator Perry
Senator Elliott

HB 190 - Senator Thomas moved the Conference Committee to **HB 190** be dissolved and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 190**. Motion carried. The President appointed the following members:

Senator Cobb, Chair
Senator Sprague
Senator Squires

SB 349 - Senator Thomas moved the Conference Committee on **SB 349** be dissolved and that the President be authorized to appoint a **Conference** Committee, and request the House to appoint a like committee to confer on the House amendments to **SB 349**. Motion carried. The President appointed the following members:

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Senator Anderson, Chair
Senator Grimes
Senator Cocchiarella

FIRST READING AND COMMITMENT OF BILLS

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 36, introduced by Pattison, Andersen, Anderson, Bales, Balyeat, Barkus, Barrett, Bitney, Black, Bohlinger, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, Butcher, E. Clark, Curtiss, DePratu, Devlin, Dickenson, Esp, Everett, Fisher, Fuchs, Gebhardt, Gillan, Glaser, Golie, Grimes, Haines, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jent, Johnson, Kasten, Kaufmann, Keenan, Kitzenberg, Laible, Lake, Lambert, Lange, Lawson, Lehman, Lewis, Lindeen, Maedje, Mahlum, Malcolm, McGee, McNutt, Mendenhall, Mood, Morgan, Nelson, O'Neil, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Rome, Ross, Sales, Schmidt, Schrumpf, Sinrud, Sprague, Stapleton, Steinbeisser, Stoker, Story, Tash, Taylor, Tester, B. Thomas, F. Thomas, Tropila, Wagman, Waitschies, Weiss, Witt, Younkin, Zook, referred to Judiciary.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 492 - Senator Johnson moved **SB 492** do pass. Motion carried unanimously.

SB 126 - Free Conference Committee Report No. 1 - Senator Story moved the **Free** Conference Committee report to **SB 126** be adopted. Motion carried unanimously.

HB 298 - Free Conference Committee Report No. 1 - Senator Gebhardt moved the **Free** Conference Committee report to **HB 298** be adopted. Motion carried unanimously.

HB 564 - Free Conference Committee Report No. 1 - Senator Mahlum moved the **Free** Conference Committee report to **HB 564** be adopted. Motion carried unanimously.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Glaser moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 57, as amended by the Free Conference Committee Report No. 1, adopted as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 101, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Cooney, Elliott, Toole.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 18, as amended by the House, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SJR 32 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 11, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 42, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Cobb, Cooney, Cromley, Schmidt, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 94, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Cromley, Esp.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 201, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 259, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Taylor.

Total 1

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

HB 261, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Curtiss, Gebhardt, McGee, Nelson, Roush.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 277, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 37

Nays: Butcher, Cooney, Cromley, Ellingson, Elliott, Johnson, O'Neil, Ryan, Schmidt, Stapleton, Stonington, Tester, Toole.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 363, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Glaser, Hansen, Harrington, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

HB 408, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Mangan.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 441, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 559, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Curtiss, Roush, Ryan, Stapleton, Story.

Total 5

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 722, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Elliott, Mangan.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 767, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 2, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Pease, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 32

Nays: Black, Bohlinger, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Roush, Ryan, Schmidt, Shea, Squires, Toole, Wheat.

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Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

HB 363 - Senator Harrington moved he be allowed to change his vote on **HB 363**, third reading this day, from yea to nay. Motion carried.

HB 363 - Senator Squires moved she be allowed to change her vote on **HB 363**, third reading this day, from yea to nay. Motion carried.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **Senate Bill 326**
Report No. 1, April 15, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 326** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 326** (reference copy -- salmon) be amended as follows:

1. Title, line 10.

Following: "REQUIRE"

Insert: "PROVIDING THAT A GROWTH POLICY MUST INCLUDE REQUIRED ELEMENTS BY OCTOBER 1, 2006, AND"

2. Title, line 13.

Following: "AREA;"

Insert: "PROVIDING THAT A GROWTH POLICY MAY COVER PART OF A JURISDICTIONAL AREA;"

3. Title, line 17.

Following: ";

Insert: "CONFORMING PROVISIONS IN THE ZONING AND SUBDIVISION LAWS TO THESE REVISIONS IN THE GROWTH POLICY LAWS; ELIMINATING THE REQUIREMENT THAT SUBDIVISION REGULATIONS BE IN ACCORDANCE WITH THE GOALS AND OBJECTIVES OF THE GROWTH POLICY WITHIN 1 YEAR OF ADOPTION OF A GROWTH POLICY;"

4. Title, line 18.

Strike: "AND"

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5. Title, line 19.

Following: "~~76-4-127,~~"

Insert: "76-2-201, 76-2-310, 76-3-210, 76-3-504, 76-3-505, 76-4-122, AND 76-4-127,"

6. Page 3, line 10.

Strike: "The"

Insert: "A"

7. Page 3, line 11.

Strike: "MUST"

Insert: "may"

Following: "part"

Insert: "or part"

8. Page 3, line 13.

Following: "(2)"

Insert: "A growth policy must include the elements listed in subsection (3) by October 1, 2006."

9. Page 6, line 13.

Following: "policy"

Insert: "pursuant to 76-1-601"

10. Page 6, line 20.

Following: "policy"

Insert: "is not a regulatory document and"

11. Page 6, line 24.

Following: "withhold,"

Insert: "withhold,"

Following: "on"

Insert: ", or impose conditions on"

12. Page 6, line 25.

Following: "act"

Insert: "or other authority to act"

13. Page 6, line 26.

Insert: "**Section 8.** Section 76-2-201, MCA, is amended to read:

"76-2-201. County zoning authorized. For the purpose of promoting the public health, safety, morals, and general welfare, a board of county commissioners that has adopted a growth policy ~~for the entire jurisdictional area~~ pursuant to chapter 1 is authorized to adopt zoning regulations for all or parts of the jurisdictional area in accordance with the provisions of this part.""

Insert: "**Section 9.** Section 76-2-310, MCA, is amended to read:

"76-2-310. Extension of municipal zoning and subdivision regulations beyond municipal boundaries.

(1) Except as provided in 76-2-312 and except in locations where a county has adopted zoning or subdivision regulations, a city or town council or other legislative body that has adopted a growth policy pursuant to chapter 1 for the area to be affected by the regulations may extend the application of its zoning or subdivision regulations beyond its limits in any direction subject to the following limits:

(a) up to 3 miles beyond the limits of a city of the first class as defined in 7-1-4111;

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- (b) up to 2 miles beyond the limits of a city of the second class; and
- (c) up to 1 mile beyond the limits of a city or town of the third class.

(2) When two or more noncontiguous cities have boundaries so near to one another as to create an area of potential conflict in the event that all cities concerned should exercise the full powers conferred by 76-2-302, 76-2-311, and this section, then the extension of zoning or subdivision regulations, or both, by these cities must terminate at a boundary line agreed upon by the cities."

Insert: "Section 10. Section 76-3-210, MCA, is amended to read:

"76-3-210. Subdivisions exempted from requirement of an environmental assessment. (1) Subdivisions totally within a jurisdictional area that has adopted is covered by all of the following are considered to be in the public interest and are exempt from the requirement of an environmental assessment:

- (a) a growth policy adopted pursuant to chapter 1;
- (b) zoning regulations pursuant to 76-2-201 or chapter 2, part 3; and
- (c) a strategy for development, maintenance, and replacement of public infrastructure pursuant to 76-1-601.

(2) (a) A planning board established pursuant to chapter 1 may exempt a proposed subdivision within its jurisdictional area from the requirement for completion of any portion of the environmental assessment if:

- (i) the subdivision is proposed in an area for which a growth policy has been adopted pursuant to chapter 1 and the proposed subdivision will be in compliance with the growth policy; or
- (ii) the subdivision will contain fewer than 10 parcels and less than 20 acres.

(b) When an exemption is granted under this subsection (2), the planning board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review.

(c) ~~Where~~ If a properly established planning board having jurisdiction does not exist, the governing body may grant exemptions as specified in this subsection (2)."

Insert: "Section 11. Section 76-3-504, MCA, is amended to read:

"76-3-504. Subdivision regulations -- contents. (1) The subdivision regulations adopted under this chapter must, at a minimum:

- (a) except as provided in 76-3-210, 76-3-509, or 76-3-609(3), require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;
- (b) establish procedures consistent with this chapter for the submission and review of subdivision plats;
- (c) prescribe the form and contents of preliminary plats and the documents to accompany final plats;
- (d) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development and prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques;
- (e) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;
- (f) prescribe standards for:
 - (i) the design and arrangement of lots, streets, and roads;
 - (ii) grading and drainage;
 - (iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that, at a minimum, meet the regulations adopted by the department of environmental quality under 76-4-104;
 - (iv) the location and installation of utilities;
- (g) provide procedures for the administration of the park and open-space requirements of this chapter;
- (h) provide for the review of preliminary plats by affected public utilities and those agencies of local, state, and federal government having a substantial interest in a proposed subdivision. A utility or agency review may not delay the governing body's action on the plat beyond the time limits specified in this chapter, and the failure of any agency to complete a review of a plat may not be a basis for rejection of the plat by the governing body.
 - (i) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:
 - (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the

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water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(j) except as provided in this subsection, require the subdivider to establish ditch easements in the subdivision that are in locations of appropriate topographic characteristics and sufficient width, to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots; are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner. Establishment of easements pursuant to this subsection (1)(j) is not required if:

(i) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(ii) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(k) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

~~_____ (l) if the governing body has adopted a growth policy pursuant to chapter 1 of this title, be made in accordance with the goals and objectives established in the growth policy that are within the scope of 76-3-501 within 1 year of adoption of the growth policy;~~

~~(m)~~(l) require the subdivider to describe, dimension, and show utility easements in the subdivision on the final plat in their true and correct location. The utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of utility facilities for the provision of utility services within the subdivision.

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development."

Insert: "Section 12. Section 76-3-505, MCA, is amended to read:

"76-3-505. Provision for summary review of minor subdivisions. (1) Local subdivision regulations must include procedures for the summary review and approval of subdivision plats containing five or fewer parcels when proper access to all lots is provided, when no land in the subdivision will be dedicated to public use for parks or playgrounds, and when the plats have been approved by the department of environmental quality whenever approval is required by part 1 of chapter 4; however, reasonable local regulations may contain additional requirements for summary approval.

(2) (a) Except when required by local subdivision regulations, proposed subdivisions eligible for summary review under this section that are located entirely within the ~~jurisdictional~~ area covered by a growth policy adopted pursuant to chapter 1 and zoning regulations adopted pursuant to chapter 2, part 2 or 3, are exempt from:

(i) the requirement to hold a hearing on the preliminary plat pursuant to 76-3-605; and

(ii) review by the governing body of the criteria in 76-3-608(3)(a).

(b) The governing body shall approve, conditionally approve, or disapprove a proposed subdivision that is eligible for review under this subsection (2) within 35 days of submission of the subdivision application."

Insert: "Section 13. Section 76-4-122, MCA, is amended to read:

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"76-4-122. Filing or recording of noncomplying plat or certificate of survey prohibited. (1) The county clerk and recorder may not file or record any plat or certificate of survey subject to review under this part showing a subdivision unless it complies with the provisions of this part.

(2) A county clerk and recorder may not accept a subdivision plat or certificate of survey subject to review under this part for filing until one of the following conditions has been met:

(a) the person wishing to file the plat or certificate of survey has obtained approval of the local health officer having jurisdiction and has filed the approval with the reviewing authority and a certificate of subdivision approval has been issued pursuant to 76-4-125 indicating that the reviewing authority has approved the subdivision application and that the subdivision is not subject to a sanitary restriction;

(b) the person wishing to file the plat or certificate of survey has obtained a certificate from the governing body pursuant to 76-4-127 that the subdivision is within ~~a jurisdictional area that has adopted~~ an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and will be provided with adequate municipal facilities and adequate storm water drainage; or

(c) the person wishing to file the plat or certificate of survey has placed on the plat or certificate of survey an acknowledged certification that the subdivision is exempt from review under this part. The certification must quote in its entirety the wording of the applicable exemption.""

Insert: "Section 14. Section 76-4-127, MCA, is amended to read:

"76-4-127. Notice of certification that adequate storm water drainage and adequate municipal facilities will be provided. (1) To qualify for the exemption from review set out in 76-4-125(2)(d), the governing body, as defined in 76-3-103, shall, within 20 days after preliminary plat approval under the Montana Subdivision and Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted for approval and that adequate storm water drainage and adequate municipal facilities will be provided for the subdivision.

(2) The notice of certification must include the following:

(a) the name and address of the applicant;

(b) a copy of the preliminary plat or a final plat when a preliminary plat is not necessary;

(c) the number of proposed parcels in the subdivision;

(d) a copy of any applicable zoning ordinances in effect;

(e) how construction of the sewage disposal and water supply systems or extensions will be financed;

(f) certification that the subdivision is within ~~a jurisdictional area that has adopted~~ an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and a copy of the growth policy, when applicable, if one has not yet been submitted to the reviewing authority;

(g) the relative location of the subdivision to the city or town;

(h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available or will be provided within 1 year after the notice of certification is issued;

(i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from the facility owners that adequate facilities are available; and

(j) certification that the governing body has reviewed and approved plans to ensure adequate storm water drainage.""

Renumber: subsequent sections

14. Page 11, line 3.

Strike: "(1)"

15. Page 11, line 4 through line 5.

Following: "APPROVED"

Strike: "AND" through "76-1-605"

Strike: "[SECTION 1] OF"

Strike: " , AMENDING" on line 4 through "76-1-605," on line 5

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16. Page 11, line 6 through line 7.

Strike: subsection (2) in its entirety

For the Senate:

McGee, Chairman
Laible
Wheat (unsigned)

For the House:

Younkin, Chairman
Everett
Gillan (unsigned)

FREE CONFERENCE COMMITTEE
on **House Bill 197**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 197** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 197** (reference copy -- salmon) be amended as follows:

1. Page 19, line 29.

Following: line 28

Insert: "(7) If House Bill No. 195 and [this act] are both passed and approved, then [section 1 of House Bill No. 195], amending 61-2-302, is void.

(8) If House Bill No. 195 and [this act] are both passed and approved and Senate Bill No. 37 is not passed and approved, then 61-5-208 must read as follows:

Insert: "**Section 5.** Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation -- probationary license -- ignition interlock device required allowed on second or subsequent first offense. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways ~~for a period of more than 1 year~~, except as otherwise permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) When a person is convicted or forfeits bail or collateral not vacated for ~~the a first~~ offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for ~~the a first~~ offense of operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall ~~revoke~~ suspend the license or driving privilege of the person for a period of 1 year and, ~~upon issuance of any restricted may not issue a~~ probationary license during the period of ~~revocation, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device~~ suspension. If the 1-year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license ~~revocation~~ suspension remains in effect until the course, treatment, or both, are completed.

(c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

(3) (a) If ~~a~~ the person pays the reinstatement fee required in 61-2-107 and provides the department proof of

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compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension of a person who has been convicted of a first violation of 61-8-401 or 61-8-406 and return the person's driver's license. The stay must remain in effect until the period of suspension has expired and any required chemical dependency education course, treatment, or both, have been completed.

(b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the court-imposed ignition interlock restriction by, including but not limited to operating a motor vehicle not equipped with the device, tampering with the device, or removing the device before the period of restriction has expired, the department shall lift the stay and reinstate the license suspension for the remainder of the time period. The department may not issue a probationary driver's license to a person whose license suspension has been reinstated because of violation of an ignition interlock restriction.

~~(4) The period for all revocations made mandatory by 61-5-205 is 1 year except as provided in subsection (2).~~

~~(5)(4) (a) The~~ Except as provided in subsection (4)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

~~(6)(5)~~ If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802.""

For the House:

Noennig, Chairman
B. Thomas (unsigned)
Becker

For the Senate:

Perry, Chairman
Mangan
Curtiss

FREE CONFERENCE COMMITTEE
on **House Bill 536**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 536** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 536** (reference copy -- salmon) be amended as follows:

1. Page 1, line 25.

Following: "statement"

Strike: "must"

Insert: "may"

2. Page 1, line 28.

Following: "manager"

Strike: "shall"

Insert: "may"

3. Page 3, line 9.

Following: "AGENT"

Insert: "of either"

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4. Page 3, line 22.

Following: "who"

Strike: "complies with subsections"

Insert: "provides the disclosure in subsection"

5. Page 3, line 23.

Following: "and"

Insert: "complies with subsection"

For the House:

Brueggeman, Chairman
Noennig
P. Clark

For the Senate:

Perry, Chairman
Black
Mangan (unsigned)

FREE CONFERENCE COMMITTEE
on **House Bill 689**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 689** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 689** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 7.

Following: "~~INFLATION~~"

Insert: "REVISING DEFINITIONS; REVISING REPORTING REQUIREMENTS; PROVIDING FOR ADJUSTMENT OF REPORTING THRESHOLD AMOUNTS FOR INFLATION;"

Following: "~~5-7-102;~~"

Insert: "5-7-102,"

2. Title, page 1, line 8.

Following: ";

Insert: ", 5-7-105,"

3. Title, page 1, line 9.

Following: "~~DATE~~"

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

4. Page 4, line 13.

Insert: "**Section 1.** Section 5-7-102, MCA, is amended to read:

"5-7-102. Definitions. The following definitions apply in this chapter:

(1) "Business" means:

(a) a holding or interest whose fair market value is greater than \$1,000, in a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed person, holding company, joint-stock company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit organizations; and

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- (b) present or past employment from which benefits, including retirement allowances, are received.
- (2) "Commissioner" means the commissioner of political practices.
- (3) "Docket" means the register of lobbyists and principals maintained by the commissioner pursuant to 5-7-201.
- (4) "Elected official" means a public official holding a state office filled by a statewide vote of all the electors of Montana or a state district office, including but not limited to legislators, public service commissioners, and district court judges. The term "official-elect" also applies to the offices.
- (5) "Individual" means a human being.
- (6) "Lobbying" means:
 - (a) the practice of promoting or opposing the introduction or enactment of legislation before the legislature or the members of the legislature by a person other than a member of the legislature or a public official; and
 - (b) the practice of promoting or opposing official action by any public official.
- ~~(7) "Lobbying for hire" includes activities of the officers, agents, attorneys, or employees of a principal who are paid, reimbursed, or retained by the principal and whose duties include lobbying. If an individual is reimbursed only for his personal living and travel expenses, which together are less than \$1,000 per calendar year, that individual is not considered to be lobbying for hire.~~
- ~~(8)~~(7) (a) "Lobbyist" means a person who engages in the practice of lobbying ~~for hire~~.
- (b) Lobbyist does not include:
 - (i) an individual acting solely on ~~his~~ the individual's own behalf; ~~or~~
 - (ii) an individual working for the same principal as a licensed lobbyist if the individual does not have personal contact involving lobbying with a public official on behalf of ~~his~~ the lobbyist's principal; ~~or~~
 - (iii) an individual who receives payments from one or more persons that total less than the amount specified under [section 5] in a calendar year.
- (c) Nothing in this ~~section~~ chapter deprives an individual who is not lobbying for hire a lobbyist of the constitutional right to communicate with public officials.
- ~~(9)~~(8) (a) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or to be made of money, property, or anything of value;
 - (i) to a lobbyist to influence legislation or official action by an elected local official or a public official;
 - (ii) directly or indirectly;
- ~~(10) "Payment to influence official action" means any of the following types of payment:~~
- ~~(a) direct or indirect payment~~ to a lobbyist by a principal, such as salary, fee, compensation, or reimbursement for lobbying expenses; excluding personal living expenses; or
- ~~(b)~~(iii) payment in support of or assistance to a lobbyist or a lobbying activity, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist.
- (b) The term does not include payments or reimbursements for:
 - (i) personal and necessary living expenses; or
 - (ii) travel expenses, unless a principal is otherwise required to report expenses pursuant to 5-7-208.
- ~~(11)~~(9) "Person" means an individual, corporation, association, firm, partnership, state or local government or subdivision of state or local government, or other organization or group of persons.
- ~~(12)~~(10) "Principal" means a person who employs a lobbyist or a person required to report pursuant to 5-7-208.
- ~~(13)~~(11) "Public official" means an individual, elected or appointed, acting in ~~his~~ an official capacity for ~~the~~ state government. The term does not include those acting in a judicial or quasi-judicial capacity or performing ministerial acts.
- ~~(14)~~(12) "Unprofessional conduct" means:
 - (a) violating any of the provisions of this chapter;
 - (b) instigating action by a public official for the purpose of obtaining employment;
 - (c) attempting to influence the action of a public official on a measure pending or to be proposed by:
 - (i) promising financial support; or
 - (ii) making public any unsubstantiated charges of improper conduct on the part of a lobbyist, a principal, or a legislator; or
 - (d) attempting to knowingly deceive a public official with regard to the pertinent facts of an official matter or

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attempting to knowingly misrepresent pertinent facts of an official matter to a public official.""

Renumber: subsequent sections

5. Page 4, line 26.

Strike: "20"

Insert: "10"

6. Page 5, line 3.

Strike: "\$2,150"

Insert: "the amount specified under [section 5]"

7. Page 5, line 8.

Insert: "**Section 3.** Section 5-7-105, MCA, is amended to read:

"5-7-105. Suspension of lobbying privileges. ~~No~~ A lobbyist whose license has been suspended and ~~no~~ a person who has been adjudged guilty of a violation of any provision of this chapter may not engage in lobbying ~~for hire~~ until that person has been reinstated to the practice and duly licensed.""

Renumber: subsequent sections

8. Page 5, lines 12 and 13.

Strike: "A TOTAL OF \$2,150"

Insert: "the amount specified under [section 5]"

9. Page 7, line 4.

Insert: "**NEW SECTION. Section 5. Payment threshold -- inflation adjustment.** For calendar years 2002 through 2004, the payment threshold in 5-7-102 and 5-7-208 is \$2,150. The commissioner shall adjust the threshold amount following a general election by multiplying the threshold amount valid for the year in which the general election was held by an inflation factor, adopted by the commissioner by rule. The rule must be written to reflect the annual average change in the consumer price index from the prior year to the year in which the general election is held. The resulting figure must be rounded up or down to the nearest \$50 increment. The commissioner shall adopt the adjusted amount by rule."

Renumber: subsequent sections

10. Page 7, line 10.

Following: "approved"

Insert: ": (1) and amend 5-7-102, then 5-7-102(13)(c) of Senate Bill No. 7 must read:

"Nothing in this chapter deprives an individual who is not a lobbyist of the constitutional right to communicate with public officials."

(2) and amend 5-7-103"

11. Page 7, line 14.

Insert: "**NEW SECTION. Section 8. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 5, chapter 7, part 1, and the provisions of Title 5, chapter 7, part 1, apply to [section 5]."

12. Page 7.

Following: line 22

Insert: "**NEW SECTION. Section 11. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to all occurrences concerning filing or reporting on or after September 1, 2002. This section may not be construed to require a refund of any fee paid on or after September 1, 2002."

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For the House:

A. Olson, Chairman
Brueggeman
Ballantyne

For the Senate:

Gebhardt, Chairman
McNutt
Squires

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 680**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 680** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 680** (reference copy -- salmon) be amended as follows:

1. Page 3, line 14 through line 15.

Strike: "ANY FEE" on line 14 through "SUBSECTION (2)" on line 15

Insert: "(a) Of the fees collected under subsection (1), \$1 must be deposited in the records preservation fund, provided for in 7-4-2635, and the remainder must be deposited as provided for in 7-4-2511.

(b) Of the fees collected under subsection (2) for nonstandard documents, each \$6 amount for a page or fraction of a page must be deposited as provided for in subsection (3)(a). The remaining \$4 of each \$10 charge for a page or fraction of a page must be deposited in the records preservation fund, provided for in 7-4-2635, and, notwithstanding 7-4-2635(3), each \$4 amount from a \$10 charge for a page or a fraction of a page"

For the House:

Noennig, Chairman
Younkin
Becker

For the Senate:

Sprague, Chairman
Gebhardt
Wheat

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved the Senate stand in recess until the hour of 5:30 p.m. this day. Motion carried.

Senate recessed at 1:57 p.m.

Senate reconvened at 5:33 p.m.

Roll call. All members present except Senators Stonington and Tropila, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Zook, Chairman):
SB 483, introduced bill, be amended as follows:

4/15/2003

1. Title, lines 7 and 8.

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Following: "ANALYSIS;"

Strike: "PROVIDING" on line 7 through "ANALYSIS;" on line 8

Insert: "REQUIRING THE STATE TREASURER TO PROVIDE INFORMATION ON THE STATE WEBSITE ON HOW TO DONATE FUNDS TO ANY STATE FUNCTION;"

2. Title, line 8.

Strike: "90"

Insert: "95"

3. Title, line 11.

Following: "SECTIONS"

Strike: "15-12-302,"

Insert: "17-1-111,"

4. Title, line 12.

Following: "17-7-102,"

Insert: "17-7-111,"

5. Page 1, line 16 through page 2, line 20.

Strike: section 1 in its entirety

Insert: "**Section 1.** Section 17-1-111, MCA, is amended to read:

"17-1-111. General fiscal duties of state treasurer. (1) The state treasurer is the custodian of all money and securities of the state unless otherwise expressly provided by law.

(2) It is the duty of the state treasurer to:

(a) receive and account for all money belonging to the state, not expressly required by law to be received and kept by some other person;

(b) pay warrants out of the funds upon which they are drawn;

(c) upon payment of any warrant, record the receipt of the person to whom it is paid;

(d) keep an account of all money received and disbursed;

(e) at the request of either house of the legislature or of any legislative committee, give information in writing as to the condition of the treasury or on any subject relating to the duties of the office of state treasurer;

(f) superintend the fiscal concerns of the state;

(g) suggest plans for the improvement and management of the public revenue;

(h) keep an account of all warrants drawn upon the treasury and of other appropriation records that the treasurer determines to be essential for the support of the accounting records maintained in the department;

(i) keep a register of warrants, showing the fund upon which each warrant is drawn, each warrant's number, who received the warrant, and the date issued;

(j) require all persons who have received money belonging to the state but who have not accounted for it to settle their accounts;

(k) draw warrants on the state treasury for the payment of money directed by law to be paid out of the treasury, except that a warrant may not be drawn unless authorized by law;

(l) authenticate with the official seal of the state all warrants drawn and all copies of papers issued from the office of state treasurer;

(m) collect and pay into the state treasury all fees received; and

(n) discharge other duties as may be imposed upon the state treasurer by law; and

(o) provide information through the state's official internet website detailing how donations can be made to the state general fund or to any function of state government."

Renumber: subsequent sections

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6. Page 3, line 9.

Strike: "90%"

Insert: "95%"

7. Page 4.

Following: line 10

Insert: "Section 3. Section 17-7-111, MCA, is amended to read:

"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and contents.

(1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

(i) establish necessary standards, formats, and other matters necessary to share information between the agencies and to ensure that information is consistent and accurate for the preparation of the state's budget; and

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2)(a) or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or the instructions given for completing the forms.

(3) The agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation or enterprise funds that transfer profits to the general fund or to an account subject to appropriation for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives.

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

~~(f) for only agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. The plan must include:~~

~~—— (i) a prioritized list of services that would be eliminated or reduced;~~

~~—— (ii) for each service included in the prioritized list, the savings that would result from the elimination or~~

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reduction; and

- ~~(iii) the consequences or impacts of the proposed elimination or reduction of each service.~~
~~(g)(f)~~ a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523; and
~~(h)(g)~~ other information the budget director feels is necessary for the preparation of a budget.
- (4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:
- (a) detailed recommendations for the state long-range building program. Each recommendation must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.
- (b) a statewide summary of recommendations for information technology projects and new initiatives. Each recommendation must be presented by institution, agency, or branch and by funding source, and recommendations for major new information technology projects must contain the information identified in 2-17-526.
- (c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.
- (d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under Title 90, chapter 6, part 7.
- (5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last completed fiscal year and the fiscal year in progress:
- (a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;
- (b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and
- (c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from such accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.
- (6) The budget director may not obtain copies of individual income tax records protected under 15-30-303. The department of revenue shall make individual income tax data available by removing names, addresses, occupations, social security numbers, and taxpayer identification numbers. The department of revenue may not alter the data in any other way. The data is subject to the same restrictions on disclosure as are individual income tax returns.""

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

HB 206, be amended as follows:

1. Page 3, line 11.

Strike: "\$6"

Insert: "\$5"

2. Page 4, line 1.

Strike: "32.6%"

Insert: "22.3%"

Strike: "22.46%"

Insert: "25%"

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3. Page 4, line 16.

Strike: "17.5%"

Insert: "20.7%"

Strike: "4.31%"

Insert: "8.75%"

4. Page 4, line 19.

Strike: "47.40%"

Insert: "54.5%"

Strike: "69.48%"

Insert: "62.5%"

And, as amended, be concurred in. Report adopted.

HB 705, be concurred in. Report adopted.

HB 727, be amended as follows:

1. Page 5, line 2.

Following: "date."

Insert: "When the department contracts for additional group homes for the developmentally disabled, the department shall give priority to providing those homes in a community in eastern Montana in which a residential facility has been closed. It is the intent of the legislature that the department of public health and human services have access to the personal services contingency funds in House Bill No. 13 in order to address any severance pay and costs for reduction in force associated with the closure of Eastmont human services center."

And, as amended, be concurred in. Report adopted.

HB 735, be concurred in. Report adopted.

HB 736, be amended as follows:

1. Page 2.

Following: line 18

Insert: "(b) appoint a representative from the juvenile corrections division of the department of corrections to serve on the renewal commission;"

Renumber: subsequent subsections

2. Page 2.

Following: line 27

Insert: "(6) As used in this section, the term "K-12 public education" includes a state youth correctional facility, as defined in 41-5-103."

And, as amended, be concurred in. Report adopted.

HB 741, be concurred in. Report adopted.

HB 743, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on House Bill 509**

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Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 509** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 509** (reference copy -- salmon) be amended as follows:

1. Page 15, line 25.

Strike: "90" through "ACT"

Insert: "December 31, 2003"

2. Page 17, line 6.

Strike: "customer choice"

Insert: "transition"

For the House:

A. Olson, Chairman
Mendenhall
Matthews

For the Senate:

Johnson, Chairman
F. Thomas
McCarthy

MESSAGES FROM THE GOVERNOR

April 15, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 13** sponsored by Senator Mahlum, **Senate Bill 34** sponsored by Senator Barkus, **Senate Bill 80** sponsored by Senator Laible, **Senate Bill 86** sponsored by Senator Zook, **Senate Bill 166** sponsored by Senator Bales et al., **Senate Bill 168** sponsored by Senator Stonington et al., **Senate Bill 241** sponsored by Senator Shea, **Senate Bill 262** sponsored by Senator Perry et al., **Senate Bill 315** sponsored by Senator Schmidt et al., **Senate Bill 316** sponsored by Senator Grimes, **Senate Bill 341** sponsored by Senator F. Thomas, **Senate Bill 380** sponsored by Senator Bales, **Senate Bill 432** sponsored by Senator Grimes, and **Senate Bill 460** sponsored by Senator Story on April 15, 2003.

Sincerely,
JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

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4/15/2003

SB 138, introduced by Cobb
SB 320, introduced by Tester
SB 336, introduced by Mahlum
SB 407, introduced by DePratu

Senate bill concurred in and returned to the Senate:

4/15/2003

SB 155, introduced by Taylor

Senate bill not concurred in and returned to the Senate:

4/14/2003

SB 287, introduced by Sprague

HB 2 - The House failed to concur in Senate amendments to **HB 2**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 2**:

4/15/2003

Representative Lewis, Chair
Representative Lindeen
Representative Pattison

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Glaser in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

*****SB 314 - House Amendments** - Senator McCarthy moved House amendments to **SB 314** be **not** concurred in. Motion carried unanimously.

SB 326 - Free Conference Committee Report No. 1 - Senator McGee moved the Free Conference Committee report to **SB 326** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Wheat.
Total 20

Absent or not voting: None.
Total 0

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Excused: Johnson, Stonington, Tropila.
Total 3

*****SB 424 - House Amendments** - Senator Nelson moved House amendments to **SB 424** be **not** concurred in. Motion carried unanimously.

HB 197 - Free Conference Committee Report No. 1 - Senator Perry moved the Free Conference Committee report to **HB 197** be adopted. Motion carried unanimously.

HB 536 - Free Conference Committee Report No. 1 - Senator Perry moved the Free Conference Committee report to **HB 536** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Squires, Tester, Toole, Wheat.
Total 20

Absent or not voting: None.
Total 0

Excused: Shea, Stonington, Tropila.
Total 3

HB 680 - Conference Committee Report No. 1 - Senator Sprague moved the Conference Committee report to **HB 680** be adopted. Motion carried unanimously.

HB 689 - Free Conference Committee Report No. 1 - Senator Gebhardt moved the Free Conference Committee report to **HB 689** be adopted. Motion carried with Senators Cobb and Taylor voting nay.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Glaser moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

HB 2 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 2**. Motion carried. The President appointed the following members:

Senator Zook, Chair
Senator Keenan
Senator Nelson

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ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, April 16, 2003. Motion carried.

Senate adjourned at 6:10 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTY-SECOND LEGISLATIVE DAY**

Helena, Montana
April 16, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Stonington and Tester, excused. Quorum present.

The presiding officer has authenticated the daily journal for the eighty-first legislative day.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SR 10.**

Correctly engrossed: **SB 483, HB 206, HB 727, HB 736.**

Correctly enrolled: **SB 95, SB 231, SB 348, SB 401, SJR 22.**

Examined by the sponsor and found to be correct: **SB 35, SB 89, SB 263, SB 288, SB 337, SB 363, SB 366, SB 381, SB 383, SB 392, SB 406, SB 434, SB 444, SB 447, SB 458.**

Signed by the President at 3:30 p.m., April 15, 2003: **SB 35, SB 89, SB 263, SB 288, SB 337, SB 363, SB 366, SB 381, SB 383, SB 392, SB 406, SB 434, SB 444, SB 447, SB 458.**

Signed by the Secretary of the Senate at 4:30 p.m., April 15, 2003: **SB 35, SB 89, SB 263, SB 288, SB 337, SB 363, SB 366, SB 381, SB 383, SB 392, SB 406, SB 434, SB 444, SB 447, SB 458.**

Signed by the Speaker at 5:00 p.m., April 15, 2003: **SB 35, SB 89, SB 263, SB 288, SB 337, SB 363, SB 366, SB 381, SB 383, SB 392, SB 406, SB 434, SB 444, SB 447, SB 458.**

Delivered to the Governor for approval at 9:15 a.m., April 16, 2003: **SB 263, SB 288, SB 337, SB 363, SB 366, SB 381, SB 383, SB 392, SB 444, SB 447, SB 458.**

Delivered to the Governor for approval at 9:50 a.m., April 16, 2003: **SB 35, SB 89, SB 406, SB 434.**

MOTIONS

SB 362 - Senator Grimes moved the **Conference** Committee on **SB 362** be dissolved and that a **Free** Conference Committee be appointed to meet with a like committee from the House to confer on **SB 362**. Motion carried. The President appointed the following members:

Senator Grimes, Chair
Senator Perry
Senator Mangan

Majority Leader Thomas moved the Senate stand in recess for purpose of party caucuses until the hour of 1:30 p.m. Motion carried.

Senate recessed at 1:11 p.m.

Senate reconvened at 1:36 p.m.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Shea in the chair.

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Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 138 - House Amendments - Senator Cobb moved House amendments to **SB 138** be concurred in. Motion carried unanimously.

SB 320 - House Amendments - Senator Tester moved House amendments to **SB 320** be concurred in. Motion carried unanimously.

*****SB 336 - House Amendments** - Senator Mahlum moved House amendments to **SB 336** be **not** concurred in. Motion carried unanimously.

*****SB 407 - House Amendments** - Senator DePratu moved House amendments to **SB 407** be **not** concurred in. Motion carried unanimously.

HB 206 - Senator Esp moved **HB 206** be concurred in. Motion carried unanimously.

HB 489 - Senator Wheat moved **HB 489** be concurred in. Motion carried unanimously.

HB 509 - Free Conference Committee Report No. 1 - Senator Johnson moved the Free Conference Committee report to **HB 509** be adopted. Motion carried unanimously.

HB 705 - Senator Cobb moved **HB 705** be concurred in. Motion carried with Senator Stapleton voting nay.

HB 727 - Senator Cobb moved **HB 727** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Glaser, Grimes, Hansen, Johnson, Laible, Mahlum, McCarthy, McGee, O'Neil, Perry, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 37

Nays: Bales, Cocchiarella, Elliott, Gebhardt, Harrington, Kitzenberg, Mangan, McNutt, Nelson, Pease, Roush, Shea, Tropila.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 735 - Senator Laible moved **HB 735** be concurred in. Motion carried unanimously.

HB 736 - Senator Tester moved **HB 736** be concurred in. Motion carried with Senator Butcher voting nay.

HB 741 - Senator Laible moved **HB 741** be concurred in. Motion carried with Senator Curtiss voting nay.

HB 743 - Senator McCarthy moved **HB 743** be concurred in. Motion carried unanimously.

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SB 483 - Senator Stonington moved **SB 483**, second reading copy, be amended as follows:

1. Title, line 9 through line 10.

Following: line 8

Strike: "REVISING" on line 9 through "LEVELS;" on line 10

2. Title, line 12.

Following: "17-7-102,"

Strike: "17-7-111,"

3. Page 4, line 8.

Following: "90%"

Strike: "95% of"

4. Page 5, line 11 through page 8, line 3.

Strike: section 3 in its entirety

Renumber: subsequent sections

Amendment **adopted** as follows:

Yeas: Anderson, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 35

Nays: Bales, Barkus, Butcher, Curtiss, DePratu, Johnson, Laible, O'Neil, Sprague, Stapleton, Story, Tash, Taylor, Zook.

Total 14

Absent or not voting: None.

Total 0

Excused: Black.

Total 1

SB 483 - Senator Keenan moved **SB 483**, as amended, do pass. Motion carried unanimously.

HJR 31 - Free Conference Committee Report No. 1 - Senator Esp moved the Free Conference Committee report to **HJR 31** be adopted. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Shea moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 336 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee, and request the House to appoint a like committee to confer on House amendments to **SB 336**. Motion carried. The President appointed the following members:

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Senator Mahlum, Chair
Senator Sprague
Senator Shea

SB 407 -Senator Thomas moved the President be authorized to appoint a **Conference** Committee, and request the House to appoint a like committee to confer on House amendments to **SB 407**. Motion carried. The President appointed the following members:

Senator DePratu, Chair
Senator Glaser
Senator Ellingson

SB 407 - Senator Ellingson spoke on **SB 407**, stating he thought a Free Conference Committee would be more appropriate to discuss this bill, and hoped the Conference Committee would come back to the Senate with such a recommendation..

Majority Leader Thomas moved the Senate suspend rule 50-170 and place **HB 206**, **HB 727** and **HB 736** on third reading this legislative day. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 126, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 326, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Harrington, Laible, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Johnson, Kitzenberg, Mahlum, Mangan, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

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Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 492 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 44

Nays: Cooney, Ellingson, Harrington, Schmidt, Stonington, Toole.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 197, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 298, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

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Nays: Curtiss, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 536, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Zook, Mr. President.
Total 39

Nays: Cooney, Ellingson, Esp, Hansen, Mangan, Nelson, Pease, Roush, Schmidt, Tester, Wheat.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 564, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 680, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 49

Nays: Cobb.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 689, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Cobb.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 206, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Roush.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 727, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Glaser, Grimes, Hansen, Johnson, Laible, Mahlum, McCarthy, McGee, O'Neil, Perry, Ryan, Schmidt, Sprague, Squires,

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Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 38

Nays: Bales, Cocchiarella, Elliott, Gebhardt, Harrington, Kitzenberg, Mangan, McNutt, Nelson, Pease, Roush, Shea.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 736, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 40

Nays: Butcher, Cromley, Johnson, Mangan, McCarthy, Nelson, Schmidt, Squires, Stonington, Taylor.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **Senate Bill 130**
Report No. 1, April 16, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 130** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 130** (reference copy -- salmon) be amended as follows:

1. Title, line 16.

Following: "PERCENT"

Strike: "ALL"

Insert: "10 PERCENT OF THE GROSS REVENUE RECEIVED AS A RESULT OF THE AGREEMENT BE DEPOSITED IN THE STATE LANDS RECREATIONAL USE ACCOUNT AND 90 PERCENT"

2. Page 3, line 14.

Following: "90%"

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Strike: "ALL" through "AGREEMENT"

Insert: "Ten percent of the gross receipts from the agreement must be deposited in the state lands recreational use account established in 77-1-808. The remaining 90% "

3. Page 3, line 16 through line 18.

Following: "trusts"

Strike: "IN ACCORDANCE" on line 16 through "TRUSTS" on line 18

4. Page 8, line 28.

Strike: "AND"

5. Page 9.

Following: line 1

Insert: "(b) 10% of the revenue received as a result of an agreement with the department of fish, wildlife, and parks for the use and impacts of hunting, fishing, and trapping as provided in [section 1]; and"

Renumber: subsequent subsection

6. Page 12, line 14.

Strike: "50-CENT"

7. Page 12, line 16.

Strike: "50-CENTS"

Insert: "the amount of that surcharge"

For the Senate:

McGee, Chairman
Barkus
Cooney

For the House:

Peterson, Chairman
Lawson
Matthews

FREE CONFERENCE COMMITTEE
on **Senate Bill 375**
Report No. 1, April 16, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 375** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 375** (reference copy -- salmon) be amended as follows:

1. Page 1, line 9.

Strike: "Waste tire bales"

Insert: "Baled waste tires"

Following: "exception"

Insert: " -- department rules"

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2. Page 1, line 13.

Following: "PURPOSE"

Insert: "within 500 feet of any road, commercial business, or private residence without the consent of the owner of the business or residence"

3. Page 1, line 14.

Following: "IN"

Strike: "CONCRETE OR A SIMILAR"

Insert: "a"

4. Page 1, line 15.

Following: "DEVICES."

Insert: "Notwithstanding any other provision of law, the department shall adopt rules authorizing other aboveground uses for baled waste tires, whether or not they are defined as solid waste."

5. Page 1, line 16.

Following: "(2)"

Strike: "Waste tire bales"

Insert: "Baled waste tires"

6. Page 1, line 19.

Following: "CIRCUMSTANCES"

Insert: "or in a location where they are likely to enter any state waters.

(3) A bale of waste tires that loses its integrity is solid waste and is subject to disposal requirements and penalties as provided in this part"

For the Senate:

Stapleton, Chairman
Perry
Elliott

For the House:

Barrett, Chairman
Brueggeman
Harris

FREE CONFERENCE COMMITTEE
on **House Bill 190**
Report No. 1, April 16, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 190** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 190** (reference copy -- salmon) be accepted by the House.

For the House:

Younkin, Chairman
Hurwitz
Windy Boy (unsigned)

For the Senate:

Cobb, Chairman
Sprague
Squires (unsigned)

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CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 304**
Report No. 1, April 16, 2003

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 304** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 304** (reference copy -- salmon) be amended as follows:

1. Title, line 8 through line 9.

Strike: "REQUIRING" on line 8 through "COMMITTEE:" on line 9

2. Page 2, line 3.

Strike: "DEPARTMENT OF LABOR AND INDUSTRY"

Insert: "state fund"

For the Senate:

Johnson, Chairman
Anderson
Cocchiarella (unsigned)

For the House:

Lewis, Chairman
Morgan
Wilson

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 330**
Report No. 1, April 15, 2003

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 330** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 330** (reference copy -- salmon) be amended as follows:

1. Title, line 5.

Strike: "PRODUCTIVITY" through "OUTCOMES"

Insert: "BENEFITS"

2. Page 1, line 26 through line 27.

Strike: "ECONOMIC" on line 26 through "OUTCOMES" on line 27

Insert: "statewide economic benefits"

For the Senate:

Stapleton, Chairman
Johnson
Mangan

For the House:

Bitney, Chairman
Fuchs
Ryan

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CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 347**
Report No. 1, April 16, 2003

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 347** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 347** (reference copy -- salmon) be amended as follows:

1. Page 1, line 29 through line 30.

Following: "THAT"

Strike: ":", on line 29 through "(A)" on line 30

2. Page 2, line 1 through line 10.

Following: "AUTHORITIES" on line 1

Strike: ":", on line 1 through "ILLNESSES" on line 10

3. Page 5, line 23.

Following: "PLAN"

Insert: ", subject to approval of the federal waivers as provided for in [section 15]"

4. Page 7, line 26.

Following: "AUTHORITIES"

Insert: ". If the provisions of the plan requiring federal approval, as provided in [section 15], are approved, the department shall implement the plan"

Following: "2004"

Insert: ", or upon approval of the federal waivers"

5. Page 8, line 2 through line 3.

Following: "DESIGNATION" on line 2

Strike: "BY" on line 2 through "STATE" on line 3

6. Page 16, line 20.

Following: "SECTION 15."

Strike: "LEGISLATIVE"

Insert: "Agreements with federal government pertaining to medicaid funding of services -- legislative"

Following: "INTENT."

Insert: "(1) The department of public health and human services is directed to pursue agreements with the United States department of health and human services, as provided for in Title XIX of the federal Social Security Act, 42 U.S.C. 1396, et seq., and implementing regulations, for the provision of increased medicaid funding for mental health services and for more flexible administration of mental health services funded with medicaid money. Agreements may be for waivers, demonstrations, or other programs as allowed for in Title XIX and its implementing regulations governing the provision of medicaid funding to the states.
(2)"

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For the Senate:

Esp, Chairman
Keenan
Stonington

For the House:

E. Clark, Chairman
Franklin
Gallus

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 395**
Report No. 1, April 16, 2003

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 395** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 395** (reference copy -- salmon) be amended as follows:

1. Title, line 10.

Strike: "BY RESIDENTS"

2. Page 1, line 29.

Strike: "TO RESIDENTS"

3. Page 5, line 22.

Following: "\$1,000"

Strike: "\$200"

Insert: "\$75; nonresident, \$750"

4. Page 6, line 8.

Following: "\$1,000"

Strike: "\$200"

Insert: "\$75; nonresident, \$750"

For the Senate:

Perry, Chairman
Barkus
Shea

For the House:

Balyeat, Chairman
Wagman
Golie

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 642**
Report No. 1, April 16, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 642** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 642** (reference copy -- salmon) be amended as follows:

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1. Page 1, line 18.

Strike: "charges for public utility service in direct relation to"

2. Page 1, line 17.

Following: "(a)"

Insert: "(i)"

3. Page 1, line 19.

Following: "₁"

Insert: "except state income tax, paid by the public utility. The resulting rate schedule changes must include:

(A) adjustments for the"

Strike: "OF"

Insert: "change in"

Strike: "CHANGES IN MONTANA"

Insert: "the deductibility of"

4. Page 1, line 20.

Strike: "ₐ paid by the public utility, including"

Insert: ";

(B)"

Following: "adjustments"

Insert: ";

Following: "AND"

Insert: "(C)"

5. Page 1, line 21.

Following: "PROTEST."

Insert: "(ii)"

Strike: "PERMANENT"

For the House:

Devlin, Chairman

Lambert

Golie

For the Senate:

Story, Chairman

Glaser

Toole

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

4/16/2003

SB 408, introduced by Nelson

SB 414, introduced by Pease

SB 484, introduced by Mangan

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/16/2003

SB 112, introduced by McCarthy

SB 294, introduced by Gebhardt

SB 461, introduced by Story

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SB 478, introduced by Story

SB 480, introduced by Black

SB 487, introduced by Pease

Senate amendments to House bill concurred in:

4/16/2003

HB 5, introduced by Kasten

SPECIAL ORDERS OF THE DAY

SR 7 - Senator Cobb moved **SR 7**, concurring in, confirming, and consenting to the nominations of certain appointments made by the Governor and submitted by written communication to the Senate, be adopted, and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SR 8 - Senator Cobb moved **SR 8**, concurring in, confirming, and consenting to the nominations of certain appointments made by the Governor and submitted by written communication to the Senate, be adopted, and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

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SR 9 - Senator Cobb moved **SR 9**, concurring in, confirming, and consenting to the nominations of certain appointments made by the Governor and submitted by written communication to the Senate, be adopted, and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 10:00 a.m., Thursday, April 17, 2003. Motion carried.

Senate adjourned at 3:50 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTY-THIRD LEGISLATIVE DAY**

Helena, Montana
April 17, 2003

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The President has authenticated the daily journal for the eighty-second legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly enrolled: **SB 402, SB 408, SB 454.**

Examined by the sponsor and found to be correct: **SB 244, SB 370, SB 408.**

Signed by the President at 2:30 p.m., April 16, 2003: **SB 244, SB 370.**

Signed by the President at 8:25 a.m., April 17, 2003: **SB 408.**

Signed by the Secretary of the Senate at 8:20 a.m., April 17, 2003: **SB 244, SB 370, SB 408.**

Signed by the Speaker at 8:25 a.m., April 17, 2003: **SB 244, SB 370.**

Signed by the Speaker at 8:30 a.m., April 17, 2003: **SB 408.**

Delivered to the Governor for approval at 8:45 a.m., April 17, 2003: **SB 244, SB 370.**

Delivered to the Governor for approval at 9:00 a.m., April 17, 2003: **SB 408.**

Examined by the sponsor and found to be correct: **SB 46, SB 194, SB 230, SB 232, SB 243, SB 246, SB 270, SB 275, SB 282, SB 321, SB 344, SB 364, SB 386, SB 387, SB 400, SB 423, SB 441.**

Signed by the President at 2:30 p.m., April 16, 2003: **SB 46, SB 194, SB 230, SB 232, SB 243, SB 246, SB 270, SB 275, SB 282, SB 321, SB 344, SB 364, SB 386, SB 387, SB 400, SB 423, SB 441.**

Signed by the Secretary of the Senate at 8:20 a.m., April 17, 2003: **SB 46, SB 194, SB 230, SB 232, SB 243, SB 246, SB 270, SB 275, SB 282, SB 321, SB 344, SB 364, SB 386, SB 387, SB 400, SB 423, SB 441.**

Signed by the Speaker at 9:00 a.m., April 17, 2003: **SB 46, SB 194, SB 230, SB 232, SB 243, SB 246, SB 270, SB 275, SB 282, SB 321, SB 344, SB 364, SB 386, SB 387, SB 400, SB 423, SB 441.**

Delivered to the Governor for approval at 9:45 a.m., April 17, 2003: **SB 46, SB 194, SB 230, SB 232, SB 243, SB 246, SB 270, SB 275, SB 282, SB 321, SB 344, SB 364, SB 386, SB 387, SB 400, SB 423, SB 441.**

JUDICIARY (Grimes, Chairman):

4/17/2003

HJR 36, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on Senate Bill 360**

Report No. 1, April 17, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 360** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 360** (reference copy -- salmon) be amended as follows:

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1. Title, line 7.

Following: "STATE FUND"

Insert: "FOR CLAIMS FOR INJURIES OCCURRING ON OR AFTER JULY 1, 1990,"

2. Title, page 1, line 9.

Strike: "A DELAYED"

Insert: "AN IMMEDIATE"

3. Page 3, line 1.

Following: the second "fund"

Insert: "for claims for injuries occurring on or after July 1, 1990,"

4. Page 3, line 26 through line 27.

Strike: "JULY" on line 26 through "2005" on line 27

Insert: "on passage and approval"

For the Senate:
F. Thomas, Chairman
Johnson
Cocchiarella

For the House:
McKenney, Chairman
Fisher
Wilson

MESSAGES FROM THE GOVERNOR

April 16, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 152** sponsored by Senator Cocchiarella, **Senate Bill 159** sponsored by Senator Johnson, **Senate Bill 284** sponsored by Senator Wheat, and **Senate Bill 334** sponsored by Senator Sprague et al. on April 16, 2003.

Sincerely,

JUDY MARTZ
Governor

April 16, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood

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Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments **Senate Bill 325, "AN ACT REVISING THE RESTRICTIONS ON SUBDIVISION ACTIVITIES UNDER THE SANITATION IN SUBDIVISIONS LAWS; AMENDING SECTION 76-4-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"**, without my signature and recommend the attached amendments for the following reasons:

Section 76-4-121, MCA, of the Sanitation in Subdivisions Act provides that a person may sell, build on, or occupy any lot in a subdivision only if the county clerk and recorder has recorded the plat or survey of the subdivision. Section 76-4-122 provides the clerk and recorder cannot record the plat or survey unless one of three prerequisites has been met. Before filing, the clerk must determine either that (1) the local health officer and the reviewing authority under the Sanitation in Subdivisions Act has approved the subdivision, (2) the local governing body has certified that the subdivision is within a jurisdiction that has adopted a growth policy and the subdivision will be provided with adequate municipal facilities and adequate storm drainage, or (3) the plat contains a certification that it is exempt from review under the Sanitation in Subdivisions Act.

As passed, Senate Bill No. 325 amends section 76-4-121 by replacing the requirement that the clerk and recorder must have recorded the plat or survey with a requirement that either: (1) the reviewing authority under the Sanitation in Subdivisions Act must have approved the subdivision, or (2) the local governing body must have certified that the subdivision is within a jurisdiction that has adopted a growth policy and the subdivision will be provided with adequate municipal facilities and adequate storm drainage. Unfortunately, the bill does not allow the person to sell, build on, or occupy a lot in the situation in which the subdivision is exempt from review under the Act.

The amendments I am proposing would correct this oversight by amending 76-4-121 to provide that the prohibition in the Sanitation in Subdivisions Act on sale, construction, and occupation of lots does not apply if the subdivision is exempt from review under that act. Please be advised that Senator McGee, the sponsor of the bill, has been informed of my recommendation and has no objections.

I urge your concurrence in the amendments.

Sincerely,
JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 325

1. Page 1, line 19.

Strike: "or"

2. Page 1, line 23.

Following: "drainage"

Insert: "; or

(3) the subdivision is otherwise exempt from review under 76-4-125"

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MESSAGES FROM THE OTHER HOUSE

SB 375 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 375**:

4/16/2003

Representative Barrett, Chair
Representative Brueggeman
Representative Harris

SB 362 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 362**:

4/16/2003

Representative Shockley, Chair
Representative Sales
Representative Parker

SB 336 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 336**:

4/16/2003

Representative Brueggeman, Chair
Representative Lange
Representative Golie

HB 13 - The House failed to concur in Senate amendments to **HB 13**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 13**:

4/16/2003

Representative A. Olson, Chair
Representative Barrett
Representative Kaufmann

HB 559 - The House failed to concur in Senate amendments to **HB 559**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 559**:

4/16/2003

Representative Waitschies, Chair
Representative Gallus
Representative Andersen

MOTIONS

HB 608- Senator Elliott moved **HB 608** be taken from the committee on Finance and Claims, printed and placed on second reading the eighty-fifth legislative day. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, O'Neil, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.
Total 29

Nays: Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Mahlum, Perry,

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Stapleton, Story, Tash, Taylor, Zook.
Total 18

Absent or not voting: None.
Total 0

Excused: Anderson, McGee, Pease.
Total 3

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 493, introduced by Keenan (by request of the Senate Finance Standing Committee), referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Stapleton in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 112 - House Amendments - Senator McCarthy moved House amendments to **SB 112** be concurred in. Motion carried unanimously.

SB 130 - Free Conference Committee Report No. 1 - Senator McGee moved the Free Conference Committee report to **SB 130** be adopted. Motion carried unanimously.

SB 294 - House Amendments - Senator Gebhardt moved House amendments to **SB 294** be concurred in. Motion carried unanimously.

SB 304 - Conference Committee Report No. 1 - Senator Johnson moved the Conference Committee report to **SB 304** be adopted. Motion carried unanimously.

SB 330 - Conference Committee Report No. 1 - Senator Mangan moved the Conference Committee report to **SB 330** be adopted. Motion carried unanimously.

SB 347 - Conference Committee Report No. 1 - Senator Keenan moved the Conference Committee report to **SB 347** be adopted. Motion carried unanimously.

SB 375 - Free Conference Committee Report No. 1 - Senator Elliott moved the Free Conference Committee report to **SB 375** be adopted. Motion carried unanimously.

SB 395 - Conference Committee Report No. 1 - Senator Perry moved the Conference Committee report to **SB 395** be adopted. Motion carried with Senator Elliott voting nay.

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*****SB 461 - House Amendments** - Senator Story moved House amendments to **SB 461** be **not** concurred in. Motion carried unanimously.

SB 478 - House Amendments - Senator Story moved House amendments to **SB 478** be concurred in. Motion carried unanimously.

*****SB 487 - House Amendments** - Senator Pease moved House amendments to **SB 487** be **not** concurred in. Motion carried unanimously.

HB 190 - Free Conference Committee Report No. 1 - Senator Cobb moved the Free Conference Committee report to **HB 190** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 642 - Conference Committee Report No. 1 - Senator Story moved the Conference Committee report to **HB 642** be adopted. Motion carried unanimously.

SB 480 - House Amendments - Senator Black moved House amendments to **SB 480** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Stapleton moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 138, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 320, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 483 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Hansen.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 489, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

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Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 509, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 705 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Stapleton.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 735 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy,

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McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Johnson.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 741 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.

Total 42

Nays: DePratu, Esp, Johnson, McCarthy, Stapleton, Story, Tash, Thomas.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 743 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Curtiss.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HJR 31, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 720**
Report No. 1, April 17, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 720** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 720** (reference copy -- salmon) be amended as follows:

1. Title, line 7.

Following: "PERMIT"

Strike: "IS"

Insert: "AND AN OBJECTION TO AN APPLICATION FOR A WATER USE PERMIT ARE"

2. Title, line 13.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "~~85-2-308~~"

Insert: "AND 85-2-308"

3. Page 3, line 10.

Insert: "**Section 2.** Section 85-2-308, MCA, is amended to read:

"85-2-308. Objections. (1) (a) An objection to an application for a permit must be filed by the date specified by the department under 85-2-307(2).

(b) The objection to an application for a permit must state the name and address of the objector and facts indicating that one or more of the criteria in 85-2-311 are not met.

(2) For an application for a change in appropriation rights, the objection must state the name and address of the objector and facts indicating that one or more of the criteria in 85-2-402 are not met.

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(3) A person has standing to file an objection under this section if the property, water rights, or interests of the objector would be adversely affected by the proposed appropriation.

(4) For an application for a reservation of water, the objection must state the name and address of the objector and facts indicating that one or more of the criteria in 85-2-316 are not met.

(5) An objector to an application under this chapter shall file a correct and complete objection on a form prescribed by the department within the time period stated on the public notice associated with the application. In order to assist both applicants and objectors, the department shall adopt rules in accordance with this chapter delineating the components of a correct and complete objection. For instream flow water rights for fish, wildlife, and recreation, the rules must require the objector to describe the reach or portion of the reach of the stream or river subject to the instream flow water right and the beneficial use that is adversely affected and to identify the point or points where the instream flow water right is measured and monitored. The department shall notify the objector of any defects in an objection. An objection not corrected or completed within 15 days from the date of notification of the defects is terminated.

(6) An objection is valid if the objector has standing pursuant to subsection (3), has filed a correct and complete objection within the prescribed time period, and has stated the applicable information required under ~~subsection (1), (2), or (4)~~ this section and rules of the department."

Renumber: subsequent section

For the House:

Hurwitz, Chairman
Younkin
Jent

For the Senate:

Tash, Chairman
Bales
Nelson

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and future plans, and thanked them for their work through this short week of session.

Senator Sprague was presented a work of art that included several of his "Spraguerisms" that people have attributed to him through his years in the Senate.

Senator Wheat introduced the choir from the Hawthorne Elementary School in Bozeman, who performed songs for the Senate.

MOTIONS

FREE CONFERENCE COMMITTEES

SB 314 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 314**. Motion carried. The President appointed the following members:

Senator Stapleton, Chair
Senator Esp
Senator McCarthy

SB 424 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 424**. Motion carried. The President appointed the following members:

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Senator Story, Chair
Senator Thomas
Senator Nelson

HB 13 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 13**. Motion carried. The President appointed the following members:

Senator Zook, Chair
Senator Tash
Senator Cooney

CONFERENCE COMMITTEES

HB 559 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate amendments to **HB 559**. Motion carried. The President appointed the following members:

Senator Glaser, Chair
Senator Story
Senator Elliott

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 5:00 p.m., Monday, April 21, 2003. Motion carried.

Senate adjourned at 11:33 a.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
April 21, 2003

Senate Chambers
State Capitol

Senate convened at 5:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Anderson, Cobb and Story, excused. Quorum present.

The presiding officer has authenticated the daily journal for the eighty-third legislative day.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Zook, Chairman): 4/17/2003
SB 493, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman): 4/18/2003
SR 10, be adopted. Report adopted.

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on Senate Bill 362
Report No. 1, April 17, 2003**

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 362** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 362** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 13 through line 14.

Strike: "ORDERED" on line 13 through "TREATMENT" on line 14

Insert: "CONVICTED OF THE OFFENSE"

2. Page 2, line 8.

Strike: "AND"

3. Page 2, line 12.

Following: "and"

Insert: "and"

4. Page 2, line 15.

Following: line 14

Insert: "(C) if the person has a driver's license, must have the license confiscated by the court for 30 days, except as provided in subsection (2)(b);"

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5. Page 2, line 21.

Strike: "AND"

6. Page 2, line 25.

Following: line 24

Insert: "(C) if the person has a driver's license, must have the license confiscated by the court for 6 months, except as provided in subsection (2)(b); and"

7. Page 2, line 25.

Strike: "(C)"

Insert: "(D)"

8. Page 3, line 7.

Following: "SUBSECTION (2)(B):"

Insert: "If the person has a driver's license, the court shall confiscate the license for 6 months, except as provided in subsection (2)(b)."

9. Page 5, line 19.

Strike: "ORDERED" through "SUBSECTION (8)"

Insert: "convicted under this section"

10. Page 5, line 21.

Strike: "ORDERED" through "SUBSECTION (8)"

Insert: "convicted under this section"

11. Page 5, line 25.

Following: "53-24-208"

Insert: "or by a court or provided under a contract with the department of corrections"

12. Page 6, line 1.

Following: "53-24-208"

Insert: "or by a court or provided under a contract with the department of corrections"

13. Page 6, line 7.

Following: "53-24-208"

Insert: "or by a court or provided under a contract with the department of corrections"

For the Senate:

Grimes, Chairman

Perry

Mangan

For the House:

Shockley, Chairman

Sales

Parker

MESSAGES FROM THE GOVERNOR

April 17, 2003

The Honorable Bob Keenan
President of the Senate

STATE INTERNET/BBS COPY

1537

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 98** sponsored by Senator Mangan, **Senate Bill 110** sponsored by Senator Toole, **Senate Bill 137** sponsored by Senator DePratu, **Senate Bill 146** sponsored by Senator Anderson, **Senate Bill 191** sponsored by Senator O'Neil, **Senate Bill 217** sponsored by Senator Mahlum et al., **Senate Bill 226** sponsored by Senator DePratu et al., **Senate Bill 254** sponsored by Senator Cooney et al., **Senate Bill 306** sponsored by Senator D. Ryan, **Senate Bill 389** sponsored by Senator McGee et al., and **Senate Bill 449** sponsored by Senator Cooney on April 17, 2003.

Sincerely,

JUDY MARTZ
Governor

April 18, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 65** sponsored by Senator Roush, **Senate Bill 105** sponsored by Senator Johnson, **Senate Bill 113** sponsored by Senator Esp, and **Senate Bill 307** sponsored by Senator D. Ryan on April 18, 2003.

Sincerely,

JUDY MARTZ
Governor

April 18, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Keenan and Speaker Mood:

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 408, "**AN ACT PROVIDING AN ADJUSTMENT TO ADJUSTED GROSS INCOME FOR STATE INCOME TAX PURPOSES FOR LICENSED HEALTH CARE PROFESSIONALS WHO RECEIVE A LOAN REPAYMENT INCENTIVE TO PRACTICE IN CERTAIN AREAS IN MONTANA; AMENDING SECTION 15-30-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE**" for the following reasons:

Senate Bill 408 provides an income tax exemption for certain health care professionals who provide medical services in areas of high need, who have student loan payments, and who receive payments by a loan repayment program.

Senate Bill 408, in its current form, does not contain language limiting the tax exemption to health care providers who have received loan payments in the current tax year for student loans that are currently outstanding. In addition, the bill in its current form provides an income tax exclusion of \$5,000 without regard to the amount of loan repayment made on behalf of the health care provider. The amendatory veto language resolves these ambiguities. The amendatory language 1) clarifies that the tax exclusion claimed is equal to the amount of the loan repayment, up to a maximum of \$5,000; 2) clarifies that the exclusion is only available to taxpayers who have a current student loan; and 3) clarifies that the taxpayer must have received the loan repayment in the tax year in which the exclusion is sought.

I have enclosed my amendment to that effect. Please be advised that the Department of Revenue concurs with this amendment. Further, please be advised that Senator Nelson, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 408

1. Page 5, line 3.

Strike: "up to \$5,000."

Insert: "the amount of the loan payment received pursuant to subsection (iv), not to exceed \$5,000"

2. Page 5, line 9.

Strike: "had"

3. Page 5, line 10.

Following: "payment"

Insert: "during the tax year

April 18, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 429, "**AN ACT GENERALLY REVISING THE PROVISIONS REGARDING REDISTRICTING; PROVIDING FOR CRITERIA; PROVIDING FOR THE USE OF DECENNIAL CENSUS DATA; PROVIDING FOR THE IMPLEMENTATION OF A SUCCESSFUL CONSTITUTIONAL AMENDMENT TO REVISE LEGISLATIVE REDISTRICTING TO CREATE A NONPARTISAN PROCESS TO ALLOW THE LEGISLATURE OPPORTUNITIES TO APPROVE A PLAN; PROVIDING THAT IF A PLAN IS NOT APPROVED, A THREE-JUDGE PANEL APPOINTED BY THE SUPREME COURT SHALL APPROVE A PLAN; PROVIDING FOR A REDISTRICTING PLAN UPON ORDER BY THE COURT; AMENDING SECTION 1, CHAPTER 4, LAWS OF 2003, AND SECTIONS 5-1-101, 5-1-102, 5-1-106, 5-1-108, 5-1-109, AND 5-1-111, MCA; REPEALING SECTION 5-1-110, MCA; CONTINGENTLY REPEALING CHAPTER 3, LAWS OF 2003; AND PROVIDING AN APPLICABILITY DATE**" without my signature and recommend the attached amendments for the following reasons:

Section 1. Redistricting criteria. As passed, Senate Bill No. 429, Section 1 concerns the issue that a plan is subject to the Voting Rights Act and must comply with a set of criteria. The recommended amendments will prioritize the criteria, set forth in Section 1, in order of importance. Further, the amendment will statutorily restrict the ability of the commission to address district boundaries that coincide with the boundaries of political subdivisions of the state to the greatest extent prior to the districts being compact.

Please be advised that Senator Esp, the sponsor of the bill, has been informed of my recommendations and has no objections.

I urge your concurrence in the amendments.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 429

1. Page 1, line 20.

Following: "criteria"

Insert: ", in order of importance"

2. Page 1, line 25.

Following: line 24

Insert: "(b) District boundaries must coincide with the boundaries of political subdivisions of the state to the greatest extent possible. The number of counties and cities divided among more than one district must be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions must be divided before the less populous, unless the boundary is drawn along a county line which passes through a city."

Renumber: subsequent subsections

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3. Page 2, line 1 through line 5.

Strike: subsection (d) in its entirety

4. Page 2, line 8.

Strike: "nonpartisan"

5. Page 2, line 13 through line 17.

Strike: subsection (4) in its entirety

MESSAGES FROM THE OTHER HOUSE

Senate bill not concurred in and returned to the Senate: 4/21/2003

SB 474, introduced by F. Thomas

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 4/17/2003

SB 464, introduced by Keenan

Senate bill not concurred in and returned to the Senate: 4/16/2003

SB 470, introduced by Mangan

Senate amendments to House bills **concurred** in: 4/17/2003

HB 3, introduced by Brueggeman

HB 4, introduced by Brueggeman

HB 18, introduced by Shockley

HB 558 - The House failed to concur in Senate amendments to **HB 558**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 558**:

4/17/2003

Representative D. Brown, Chair

Representative Maedje

Representative Keane

House joint resolution passed and transmitted to the Senate for concurrence: 4/17/2003

HJR 38, introduced by Erickson

FIRST READING AND COMMITMENT OF BILLS

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 38, introduced by Erickson, referred to Taxation.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 112, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Anderson, Cobb, Story.
Total 3

SB 130, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Curtiss, Elliott.
Total 2

Absent or not voting: None.
Total 0

Excused: Anderson, Cobb, Story.
Total 3

SB 294, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Anderson, Cobb, Story.
Total 3

SB 304, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Anderson, Cobb, Story.
Total 3

SB 330, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Cromley, Ellingson, McNutt, Toole.
Total 4

Absent or not voting: None.
Total 0

Excused: Anderson, Cobb, Story.
Total 3

SB 347, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Hansen.

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Total 1

Absent or not voting: None.

Total 0

Excused: Anderson, Cobb, Story.

Total 3

SB 375, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 41

Nays: Butcher, Cooney, Esp, Gebhardt, Mahlum, Ryan.

Total 6

Absent or not voting: None.

Total 0

Excused: Anderson, Cobb, Story.

Total 3

SB 395, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Thomas, Zook.

Total 28

Nays: Bohlinger, Cocchiarella, Cooney, Ellingson, Elliott, Harrington, Johnson, Kitzenberg, Mangan, Nelson, Pease, Roush, Schmidt, Squires, Tester, Toole, Tropila, Wheat, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: Anderson, Cobb, Story.

Total 3

SB 478, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Anderson, Cobb, Story.
Total 3

SB 480, as amended by the House, passed as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 42

Nays: Barkus, Cocchiarella, DePratu, Gebhardt, Squires.
Total 5

Absent or not voting: None.
Total 0

Excused: Anderson, Cobb, Story.
Total 3

HB 190, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 29

Nays: Cooney, Cromley, Curtiss, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 20

Paired: Anderson, Story, Ayes; Elliott, Wheat, Noes.

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 642, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea,

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Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 36

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Ryan, Schmidt, Squires, Toole, Wheat.
Total 11

Absent or not voting: None.
Total 0

Excused: Anderson, Cobb, Story.
Total 3

PROCLAMATION

A PROCLAMATION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA

WHEREAS, by the turn of the twentieth century the Fort Shaw Government Industrial Indian Boarding School (1892-1910)--an off-reservation Sun River Valley boarding school for American Indian children from Montana, Idaho, and Wyoming--was providing its female students with the opportunity to engage in the fledgling sport of "basketball"; and

WHEREAS, by 1903 the Fort Shaw girls' team had become the state basketball champions by defeating all the girls' and women's high school and college teams in Montana; and

WHEREAS, in 1904 the ten young women of the Fort Shaw team were invited to spend five months at the Louisiana Purchase Exposition in St. Louis as students at the Model Indian School on the fairgrounds, where they were to demonstrate their basketball skills as well as to give weekly literary programs and musical concerts; and the girls and their families accepted this challenge, welcoming the opportunity to share their talents with the wider world; and

WHEREAS, defeating all comers in St. Louis, this outstanding group of young women returned to Montana in November 1904 with a gleaming World's Fair silver trophy; and

WHEREAS, in the words of a contemporary reporter, "the playing of these Fort Shaw girls has had much to do with making the game (of basketball) so popular in Montana"; and

WHEREAS, the members of this team of girls from Fort Shaw, in taking on opportunities for expanding their education and embracing new experiences, have become role models not only for their own descendants and for Montana's Indian youth, but for all the state's young people.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA: that we proclaim 2004 the year of the Fort Shaw Indian Boarding School's 1904 World's Championship Team.

Herewith, let their names be read into the record: Minnie Burton, Lemhi Shoshone; Genie Butch, Assiniboine; Genevieve Healy, Gros Ventre; Bell Johnson, Piegan; Rose LaRose, Shoshone-Bannock; Flora Lucero, Chippewa; Sarah Mitchell, Assiniboine; Emma Sansaver, Chippewa-Cree; Catherine Snell, Assiniboine; and Nettie Wirth, Assiniboine.

SENATOR BOB KEENAN

REPRESENTATIVE DOUG MOOD

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

President of the Senate

Speaker of the House

MOTIONS

SB 395 - Senator Bohlinger moved he be allowed to change his vote on **SB 395**, third reading this day, from yea to nay. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Tuesday, April 22, 2003. Motion carried.

Senate adjourned at 5:27 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
April 22, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the eighty-fourth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 493**.

Correctly enrolled: **SB 155, SB 414, SB 484, SJR 18, SR 7, SR 8, SR 9**.

Examined by the sponsor and found to be correct: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484, SJR 22, SR 7, SR 8, SR 9**.

Signed by the President at 9:00 a.m., April 22, 2003: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484, SJR 22, SR 7, SR 8, SR 9**.

Signed by the Secretary of the Senate at 10:00 a.m., April 22, 2003: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484, SJR 22, SR 7, SR 8, SR 9**.

Signed by the Speaker at 10:30 a.m., April 22, 2003: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484, SJR 22**.

Delivered to the Secretary of State at 11:09 a.m., April 22, 2003: **SJR 22, SR 7, SR 8, SR 9**.

Delivered to the Governor for approval at 11:30 a.m., April 22, 2003: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484**.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

4/22/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 12:00 noon, Thursday, April 17, 2003:

TITLE

NAME

Pages:

Halley Montalban, Billings, MT
Brad Foster, Townsend, MT
Alexandra Lane, Missoula, MT
Heather Stricker, Laurel, MT
Hannah Lee, Missoula, MT

Report Adopted.

MOTIONS

HB 608 - Senator Thomas moved consideration of **HB 608** be moved to the afternoon session this legislative day. Motion carried.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 360 - Free Conference Committee Report No. 1 - Senator F. Thomas moved the **Free** Conference Committee report to **SB 360** be adopted. Motion carried unanimously.

SB 325 - Governor's Amendments - Senator McGee moved Governor's amendments to **SB 325** be concurred in. Motion carried unanimously.

HB 720 - Free Conference Committee Report No. 1 - Senator Tash moved the **Free** Conference Committee report to **HB 720** be adopted. Motion carried unanimously.

HJR 36 - Senator McGee moved **HJR 36** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 45

Nays: Cromley, Ellingson, Mangan, Toole, Wheat.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

SR 10 - Senator Cobb moved **SR 10**, concurring in, confirming, and consenting to the nominations and appointments made by the Governor and submitted by written communication to the Senate, of Mr. Steve Johnson, Mr. Patrick Dudley and Mr. Joe Dwyer, as members of the Board of Personnel Appeals be adopted, and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

SB 487- Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 487**. Motion carried. The President appointed the following members:

Senator Johnson, Chair
Senator Laible
Senator Pease

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:00 p.m. this day. Motion carried.

Senate recessed at 8:35 p.m.
Senate reconvened at 1:00 p.m.

Roll call. All members present. Quorum present.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 13**
Report No. 1, April 22, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 13** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 13** (reference copy -- salmon) be accepted by the House.

For the House:

A. Olson, Chairman
Barrett
Kaufmann (unsigned)

For the Senate:

Zook, Chairman
Tash
Cooney (unsigned)

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MESSAGES FROM THE GOVERNOR

April 21, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 35** sponsored by Senator Grimes, **Senate Bill 209** sponsored by Senator Tester et al., **Senate Bill 363** sponsored by Senator McNutt et al., **Senate Bill 366** sponsored by Senator Grimes et al., **Senate Bill 392** sponsored by Senator Bales et al., **Senate Bill 423** sponsored by Senator Black et al., **Senate Bill 447** sponsored by Senator Grimes et al., and **Senate Bill 450** sponsored by Senator Cocchiarella et al. on April 21, 2003.

Sincerely,

JUDY MARTZ
Governor

April 21, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Re: HB 218

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 218, **"AN ACT REQUIRING THAT THE OWNER OF HIGH-LEVEL RADIOACTIVE WASTE OR TRANSURANIC WASTE PAY FEES, SUBMIT A SAFETY PLAN, AND OBTAIN A PERMIT BEFORE SHIPPING THE WASTE THROUGH MONTANA; DEFINING TERMS; CREATING THE RADIOACTIVE WASTE TRANSPORTATION MONITORING, EMERGENCY RESPONSE, AND TRAINING ACCOUNT IN THE STATE SPECIAL REVENUE FUND; SPECIFYING HOW MONEY IN THE ACCOUNT MUST BE USED; REQUIRING THAT INITIAL NOTICE OF SHIPMENTS BE PROVIDED TO THE DISASTER AND EMERGENCY SERVICES DIVISION OF THE DEPARTMENT OF MILITARY AFFAIRS AND TO THE DEPARTMENT OF TRANSPORTATION; REQUIRING THAT THE DISASTER AND EMERGENCY SERVICES DIVISION NOTIFY CERTAIN OTHER AGENCIES AND PERSONS WHEN IT IS INFORMED THAT WASTE WILL BE ROUTED**

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THROUGH MONTANA; PROVIDING RESPONSIBILITIES FOR OWNERS; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO COLLECT THE FEES AND ISSUE PERMITS; REQUIRING INSPECTIONS; REQUIRING THAT THE PERMIT REMAIN WITH THE TRANSPORTER OF WASTE AS IT TRAVELS THROUGH THE STATE; REQUIRING THE HIGHWAY PATROL TO MONITOR OR ESCORT MOTOR CARRIERS THAT ARE CARRYING THE WASTE; PROVIDING FOR THE COORDINATION OF INSPECTIONS OF MOTOR CARRIERS; ALLOWING THE HIGHWAY PATROL TO BE REIMBURSED FOR COSTS INCURRED IN MONITORING OR ESCORTING THE MOTOR CARRIERS; SPECIFYING THAT THE PUBLIC SERVICE COMMISSION IS RESPONSIBLE FOR INSPECTING RAILS OR TRAINS THAT WILL BE INVOLVED IN CARRYING THE WASTE; PROVIDING CERTAIN RECOMMENDATIONS FOR TRANSPORT OF THE WASTE; ALLOWING THE PUBLIC SERVICE COMMISSION TO ENTER INTO RECIPROCAL AGREEMENTS WITH ADJACENT STATES AND CANADIAN PROVINCES FOR INSPECTION; REQUIRING THE PUBLIC SERVICE COMMISSION TO ESTABLISH RULES FOR CARRYING OUT THESE PROVISIONS; ASSIGNING LIABILITY; PROVIDING A PENALTY; AND PROVIDING A DELAYED EFFECTIVE DATE" without my signature and recommend the attached amendment for the following reason:

I have no concerns with the objectives of House Bill No. 218, nor with its specific measures. I recommend, however, that Section 8 (5) be amended, for clarification purposes, to read that the routing of the transport by motor carrier of high-level radioactive waste and transuranic waste must be determined by the Department of Transportation and the appropriate regulating federal authority.

I have enclosed my amendment to that effect. Please be advised that Senator Bookout-Reinicke, the sponsor of the bill, has been informed of my recommendation and has no objections.

I urge your concurrence in the amendment.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 218

1. Page 7, line 3.

Strike: "TRANSPORT"

Insert: "The routing of the transport"

April 18, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol

SENATE JOURNAL
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Helena, Montana 59620

Re: HB 247

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 247, "**AN ACT PROHIBITING LOCAL GOVERNMENTS FROM ENACTING ORDINANCES CONCERNING VAGRANCY; REMOVING EXISTING STATUTORY PROVISIONS CONCERNING VAGRANCY; AMENDING SECTIONS 7-1-111, 7-21-3322, 7-32-4304, AND 53-21-138, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE**" for the following reasons.

House Bill No. 247, as it stands, would prohibit vagrancy ordinances to include aggressive solicitation. Further, House Bill No. 247, as it stands, would not prohibit (1) panhandlers from following citizens down a public sidewalk until they respond affirmatively to the solicitation; (2) panhandlers from approaching cars stopped at a traffic light; or (3) panhandlers from blocking the safe or free passage of a person on a sidewalk.

The proposed amendments would allow cities to enact an aggressive solicitation ordinance while still prohibiting non-aggressive panhandling.

For these reasons, I recommend that Section 1 (14) be amended as follows: **7-1-111. Powers defined.** A local government unit with self-government powers is prohibited from exercising the following: (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy. And, I recommend that Section 3, be amended as follows: 7-32-4304. Control of disorderly conduct and aggressive solicitation. The city or town council has power to restrain and punish persons guilty of disorderly conduct and aggressive solicitation as defined by ordinance.

I have enclosed my amendments to that effect. Please be advised that Representative Harris, the sponsor of the bill, has been informed of my recommendation.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 247

1. Title, line 5.

Following: "VAGRANCY;"

Insert: "CLARIFYING THAT VAGRANCY DOES NOT INCLUDE AGGRESSIVE SOLICITATION;"

2. Page 2, line 15.

Following: "(14)"

Insert: "subject to 7-32-4304,"

3. Page 3, line 13.

Following: "conduct"

Insert: "and aggressive solicitation"

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4. Page 3, line 14.

Following: "conduct"

Insert: "and aggressive solicitation as defined by ordinance"

MOTIONS

SB 461 - Senator Thomas moved the President be authorized to appoint a **Conference** Committee, and request the House to appoint a like committee, to confer on House amendments to **SB 461**. Motion carried. The President appointed the following members:

Senator Story, Chair
Senator DePratu
Senator Stonington

HB 559 - Senator Thomas moved the Senate accede to the request of the House that the Conference Committee to **HB 559** be dissolved, and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 559**. Motion carried. The President appointed the following members:

Senator Glaser, Chair
Senator Story
Senator Elliott

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Keenan retained the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 362 - Free Conference Committee Report No. 1 - Senator Grimes moved the **Free** Conference Committee report to **SB 362** be adopted. Motion carried with Senator Bales, Cocchiarella and Shea voting nay.

Senator Grimes assumed the chair.

SB 408 - Governor's Amendments - Senator Nelson moved Governor's amendments to **SB 408** be concurred in. Motion carried unanimously.

SB 429 - Governor's Amendments - Senator Esp moved Governor's amendments to **SB 429** be concurred in. Motion carried unanimously.

SB 464 - House Amendments - Senator Keenan moved House amendments to **SB 464** be concurred in. Motion carried unanimously.

SB 493 - Senator Keenan moved **SB 493** do pass. Motion carried unanimously.

HB 608 - Senator Elliott moved **HB 608**, second reading copy, be amended as follows:

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1. Title, line 11.

Strike: "QUARTERLY"

Insert: "ANNUAL"

2. (Deleted per clerical dated 4/22/2003)

3. (Deleted per clerical dated 4/22/2003)

Section 1 deleted by Sen. Thomas' Committee of the Whole amendment

4. Page 2, line 22.

Strike: "Quarterly"

Insert: "At least annually"

Amendment **adopted** unanimously.

HB 608 - Senator F. Thomas moved **HB 608**, second reading copy, be further amended as follows:

1. Title, line 8.

Strike: "REQUIRING"

Insert: "PROVIDING FOR"

2. Title, line 10.

Strike: "REQUIRING"

Insert: "AUTHORIZING"

3. Title, line 11.

Strike: "REQUIRING"

Insert: "PROVIDING FOR"

4. Page 1, line 13.

Insert: "WHEREAS, the Legislature recognizes the right of tribes to self-government; and
WHEREAS, the Legislature supports tribal sovereignty and self-determination; and
WHEREAS, the Legislature recognizes the fundamental principle and integrity of the
government-to-government relationship between the State of Montana and the Indian Nations of Montana; and
WHEREAS, the Legislature supports strengthening communications and building collaborative relationships
that will benefit both the Indian Nations and the State of Montana."

5. Page 1, line 16 through line 24.

Strike: section 1 in its entirety

Renumber: subsequent sections

6. Page 1, line 26.

Strike: "5"

Insert: "3"

7. Page 2, line 6.

Strike: "must be guided by"

Insert: "should consider"

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8. Page 2, line 14 through line 15.

Strike: section 4 in its entirety

Renumber: subsequent sections

9. Page 2, line 22.

Strike: "shall"

Insert: "may"

10. Page 3, line 10.

Strike: "5"

Insert: "3"

11. Page 3, line 12.

Strike: "5"

Insert: "3"

Amendment **adopted** with Senator Mangan voting nay.

HB 608 - Senator Elliott moved **HB 608**, as amended, be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

HB 558 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate amendments to **HB 558**. Motion carried. The President appointed the following members:

Senator Mahlum, Chair
Senator Sprague
Senator Shea

MESSAGES FROM THE OTHER HOUSE

SB 314 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 314**:

4/22/2003

Representative E. Clark, Chair
Representative B. Thomas
Representative Raser

SB 424 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 424**:

4/22/2003

Representative Andersen, Chair
Representative Jackson
Representative Fritz

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SB 487 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 487**:

4/22/2003

Representative Bitney, Chair
Representative Mendenhall
Representative Small-Eastman

SB 407 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 407**:

4/22/2003

Representative Devlin, Chair
Representative Balyeat
Representative Laslovich

SB 461 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 461**:

4/22/2003

Representative Devlin, Chair
Representative Lake
Representative Forrester

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Wednesday, April 23, 2003. Motion carried.

Senate adjourned at 1:46 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

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Helena, Montana
April 23, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Sprague, excused. Quorum present.

The presiding officer has authenticated the daily journal for the eighty-fifth legislative day.

Senator Mahlum excused at this time.

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on **Senate Bill 252**
Report No. 1, April 17, 2003**

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 252** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 252** (reference copy -- salmon) be amended as follows:

1. Title, page 1, lines 7 through 8.

Strike: "EACH" on line 7

Insert: "CERTAIN"

Strike: "ELECTION"

Insert: "ELECTIONS"

Strike: "AND" on line 7 through "PROVIDED" on line 8

2. Page 2, lines 8 through 9.

Strike: "for as long" on line 8 through "application" on line 9

Following: "."

Insert: "However, the application is valid for only one federal election and all other elections until the next federal election."

3. Page 3, line 17.

Strike: "administration"

Insert: "administrator"

Strike: "."

4. Page 3, line 18.

Strike: "(A)"

Following: "request"

Strike: "that an"

Strike: "ballot,"

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5. Page 3, lines 19 through 23.

Strike: "when available" on line 19 through "BALLOT" on line 23

Insert: "ballots for subsequent elections, as provided in 13-13-212(5)"

Following: "FORM"

Insert: ", or another form prescribed by the secretary of state,"

Strike: "PROVIDE"

Insert: "verify"

6. Page 3, line 24.

Following: "ADDRESS"

Insert: "and must be returned with the voted absentee ballot"

Strike: "INCLUDED"

Insert: "used"

For the Senate:

Butcher, Chairman
Stapleton
Squires (unsigned)

For the House:

Sinrud, Chairman
B. Olson
Gibson (unsigned)

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 336**
Report No. 1, April 22, 2003

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 336** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 336** (reference copy -- salmon) be amended as follows:

1. Title, line 11.

Following: "~~NOT~~"

Insert: "NOT"

2. Title, line 12.

Strike: "INTENDS"

Insert: "DOES NOT INTEND"

3. Title, line 14.

Strike: "AND FISHING ACCESS SITES"

4. Page 3, line 3.

Strike: "\$3.25"

Insert: "\$3.50"

5. Page 3, line 4.

Strike: "50"

Insert: "25"

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6. Page 4, line 24.

Strike: "AND FISHING ACCESS SITES"

7. Page 6, line 12.

Strike: "IF"

Insert: "Unless"

8. Page 6, line 17.

Strike: "INTENDS"

Insert: "does not intend"

9. Page 6, line 18.

Following: "not"

Insert: "not"

10. Page 6, line 19.

Following: "is"

Strike: "NOT"

For the Senate:

Mahlum, Chairman
Sprague
Shea

For the House:

Brueggeman, Chairman
Lange
Golie

MESSAGES FROM THE GOVERNOR

April 22, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 111** sponsored by Senator Nelson, **Senate Bill 243** sponsored by Senator Wheat et al., **Senate Bill 263** sponsored by Senator Grimes, **Senate Bill 364** sponsored by Senator Cooney, and **Senate Bill 383** sponsored by Senator Bales on April 22, 2003.

Sincerely,

JUDY MARTZ
Governor

April 22, 2003

The Honorable Bob Keenan
President of the Senate

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State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Re: SB 370

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 370, "**AN ACT REVISING WHICH ENTITIES PAY FOR THE MEDICAL EXPENSES OF INMATES HELD IN COUNTY DETENTION FACILITIES; PROVIDING CIRCUMSTANCES UNDER WHICH THE INMATE IS RESPONSIBLE FOR PAYMENT; REQUIRING THE HEALTH CARE PROVIDER TO COLLECT PAYMENTS FOR TREATMENT FROM INMATES WHO ARE ABLE TO PAY; PROVIDING CIRCUMSTANCES UNDER WHICH THE COUNTY IS RESPONSIBLE FOR PAYMENT; AMENDING SECTIONS 7-32-2222 AND 7-32-2245, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons:

I have no concerns with the objectives of Senate Bill No. 370, or with its specific measures. I recommend, however, that Section 2 (3)(C) be amended to read that if the health care provider is reimbursed by the third-party payor or by the inmate or after the provider has been reimbursed by the county, the provider shall refund to the county the amount that the provider had been paid by the county for the services provided to the inmate.

I have enclosed my amendment to that effect. Please be advised that Senator Gebhardt, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 370

1. Page 3, line 2.
Following: "BY"
Insert: "the inmate or"

April 22, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House

SENATE JOURNAL
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State Capitol
Helena, Montana 59620

Re: SB 381

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 381, "**AN ACT PROVIDING THAT THE USE OF ARBITRATION FOR DISPUTE RESOLUTION UNDER THE NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975 IS NOT MANDATORY; AMENDING SECTIONS 75-7-111, 75-7-112, 75-7-113, 75-7-116, 75-7-117, AND 75-7-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons:

Section 75-7-112, MCA, Section 2 gives the applicant 15 days to choose either arbitration or judicial review. The conservation district supervisor and the department of fish, wildlife and parks representative are limited to 5 days to give notice of arbitration. If arbitration is selected by a person other than the applicant and then the applicant attempts to seek a judicial review a conflict of laws problem is created. In other words, both arbitration and judicial review have been invoked and the question becomes which process should be used. The DNRC recommends that the applicant's choice of remedy should prevail.

The following attached amendments will provide the following:

- (1)The applicant's choice of filing a petition for judicial review will prevail over a fish, wildlife and parks or a conservation districts representative's choice of filing for arbitration.
- (2) The effective date would be moved to give the local, state and federal agencies the time to develop the necessary applications, etc. to implement the law as amended by SB 381.

Please be advised that the Department of Natural Resources and Conservation concur with this amendment. Further, please be advised that Senator Keenan, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 381

1. Title, line 6.

Following: ";

Insert: "AND"

2. Title, line 7.

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 5, line 23.

Following: "Review."

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Insert: "(1)"

4. Page 5, line 26.

Insert: "(2) An applicants choice of the judicial review remedy prevails over any other team member's request for arbitration regardless of whether arbitration was requested prior to the filing of a petition for judicial review by the applicant."

5. Page 5, line 27.

Strike: section 7 in its entirety

April 22, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Re: HB 5

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 5, "**AN ACT APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2005; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING THAT FOR THE PURPOSE OF FOSTERING PRIVATE EFFORTS TO RESTORE, MAINTAIN, AND DEVELOP THE OLD MAIN BUILDING AT THE MONTANA VETERANS' HOME, THE DEPARTMENT OF ADMINISTRATION MAY WAIVE REQUIREMENTS PERTAINING TO BIDDING AND BONDING FOR STATE BUILDING PROJECTS IN TITLE 18, MCA, TO LABOR REQUIREMENTS IN TITLE 18, MCA, AND TO CONTRACTOR REGISTRATION IN TITLE 39, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE,**" without my signature and recommend the attached amendment for the following reason:

Section 2. Capital projects appropriations. As passed, House Bill No. 5, Section 2, reads that the Department of Administration, for the purpose of fostering restoration, maintenance, and development of the project at the Montana Veteran's Home in Columbia Falls, may waive the requirements pertaining to bidding and bonding for State building projects in Title 39.

A technical amendment must be made to strike Title 39 and insert Title 18. Specifically, Section 2, (2)(a)(i) should read that the Department of Administration may waive, the requirements pertaining to: bidding and bonding for state building projects in Title 18.

I have enclosed my amendment to that effect. Please be advised that Representative Kasten, the sponsor of the bill, has been informed of my recommendation and has no objections.

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Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO **HOUSE BILL 5**

1. Page 4, line 18.

Strike: "39"

Insert: "18"

April 22, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Re: HB 609

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 609, "**AN ACT HONORING THE SACRIFICE, PATRIOTISM, AND LONG TRADITION OF MILITARY PARTICIPATION BY MONTANA'S AMERICAN INDIAN CITIZENS BY REQUIRING SPECIFIC RECOGNITION OF MONTANA'S PAST, PRESENT, AND FUTURE AMERICAN INDIAN WAR VETERANS IN THE CONSTRUCTION OF THE AMERICAN INDIAN MONUMENT AND TRIBAL FLAG CIRCLE; AMENDING SECTION 22-2-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE,**" without my signature and recommend the attached amendment for the following reasons:

House Bill No. 609 to provide a contingent effective date. I recommend that House Bill No. 609 be amended as follows: This act is effective on the date that the state treasurer certifies to the governor that sufficient private funds have been received to finance the construction of the monument and tribal flag circle. The state treasurer shall provide a copy of the certification to the code commissioner.

I have enclosed my amendment to that effect. Please be advised that Representative Windy Boy, the sponsor of the bill, has been informed of my recommendation and has no objections.

I urge your concurrence in the amendment.

Sincerely,

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JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO **HOUSE BILL 609**

1. Title, line 11.

Strike: "AN IMMEDIATE"

Insert: "A CONTINGENT"

2. Page 2, line 23.

Strike: "passage and approval"

Insert: "the date that the state treasurer certifies to the governor that sufficient private funds have been received to finance the construction of the monument and tribal flag circle. The state treasurer shall provide a copy of the certification to the code commissioner"

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 4/22/2003

SB 384, introduced by Mangan

SB 399, introduced by Bohlinger

SB 446, introduced by Barkus

SB 473, introduced by Elliott

SB 491, introduced by Stonington

Senate joint resolution concurred in and returned to the Senate: 4/22/2003

SJR 13, introduced by Toole

Senate joint resolution concurred in as amended and returned to the Senate for concurrence in House amendments:

4/22/2003

SJR 17, introduced by Tester

House bill passed and transmitted to the Senate for concurrence: 4/22/2003

HB 775, introduced by Laszloffy

House joint resolutions passed and transmitted to the Senate for concurrence: 4/22/2003

HJR 35, introduced by Bixby

HJR 37, introduced by Noennig

HJR 40, introduced by Younkin

HJR 41, introduced by Lindeen

HJR 42, introduced by Lindeen

HJR 43, introduced by Windy Boy

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Senate amendments to House bills concurred in:

4/22/2003

HB 452, introduced by Raser
HB 721, introduced by Erickson
HB 744, introduced by E. Clark
HB 748, introduced by Devlin

Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/22/2003

HB 693, introduced by Sinrud

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Keenan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 13 - Free Conference Committee Report No. 1 - Senator Zook moved the Free Conference Committee report to **HB 13** be adopted. Motion carried as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 32

Nays: Anderson, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Wheat.
Total 16

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.
Total 2

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Keenan moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

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SB 325, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cromley, Ellingson.
Total 2

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.
Total 2

SB 360, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cromley, Ellingson.
Total 2

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.
Total 2

SB 362, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Cobb, Cocchiarella, Harrington, Nelson, Shea.
Total 5

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.

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Total 2

SB 408, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: Mahlum, Sprague.

Total 2

SB 429, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Absent or not voting: None.

Total 0

Excused: Mahlum, Sprague.

Total 2

SB 464, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Mahlum, Sprague.
Total 2

SB 493 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Zook, Mr. President.
Total 42

Nays: Cocchiarella, Cromley, Gebhardt, Mangan, Tester, Wheat.
Total 6

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.
Total 2

HB 608, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.
Total 2

HB 720, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 40

Nays: Cooney, Cromley, Ellingson, Elliott, Schmidt, Tester, Toole, Wheat.
Total 8

Absent or not voting: None.

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Total 0

Excused: Mahlum, Sprague.

Total 2

HJR 36 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 43

Nays: Cromley, Ellingson, Mangan, Toole, Wheat.

Total 5

Absent or not voting: None.

Total 0

Excused: Mahlum, Sprague.

Total 2

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 10:00 a.m. this day. Motion carried.

Senate recessed at 8:58 a.m.

Senate reconvened at 10:05 a.m.

Roll Call. All members present except Senators Harrington and Sprague, excused. Quorum present.

MESSAGES FROM THE GOVERNOR

April 22, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Re: SB 270

Dear President Keenan and Speaker Mood:

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In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 270, "**AN ACT REVISING THE INDEPENDENT CONTRACTOR EXEMPTION LAWS; IMPOSING A CIVIL PENALTY AND REQUIRING REPAYMENT OF UNEMPLOYMENT CONTRIBUTIONS AND WORKERS' COMPENSATION PREMIUMS AGAINST AN EMPLOYER WHO FALSELY MISREPRESENTS AN EMPLOYEE'S STATUS AS AN EXEMPT INDEPENDENT CONTRACTOR; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO APPOINT AN INTERIM ADVISORY COMMITTEE TO STUDY ISSUES RELATED TO INDEPENDENT CONTRACTORS AND TO MAKE RECOMMENDATIONS TO THE 59TH LEGISLATURE; AMENDING SECTION 39-71-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE**" for the following reasons:

I have no concerns with the objectives of Senate Bill No. 270, or with its specific measures. I recommend, however, that Section 1 (3)(f) be deleted in its entirety. A purpose of the bill is to penalize an independent contractor who misrepresents his or her status as an exempt independent contractor. I trust that the advisory committee, contained in Section 2, will study issues relating to independent contractors as it relates to a working definition and to exemptions of independent contractors from coverage under the Worker's Compensation Act.

I have enclosed my amendment to that effect. I urge your concurrence in this amendment.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 270

1. Title, lines 4 through 15.
Strike: "REVISING" on line 12 through "CONTRACTOR;" on line 15
2. Title, lines 17 and 18.
Following: ";" on line 17
Strike: remainder of line 17 through "MCA;" on line 18
3. Title, line 19.
Strike: "AND AN APPLICABILITY DATE"
4. Page 2, line 3 through page 6, line 9.
Strike: section 1 in its entirety
Renumber: subsequent sections
5. Page 6, line 27.
Strike: "-- applicability"
6. Page 6, lines 28 and 29.
Following: "approval" on line 28
Strike: remainder of line 28 through "act]" on line 29

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MESSAGES FROM THE OTHER HOUSE

HB 559 - The House dissolved the Conference Committee on House amendments to **HB 559**, and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 559**:

4/23/2003

Representative Brueggeman, Chair
Representative Musgrove
Representative Gallus

HB 424 - The House dissolved the Conference Committee on House amendments to **HB 424**, and authorized the Speaker to appoint the following **Free** Conference Committee to confer with a like committee from the Senate to confer on **HB 424**:

4/23/2003

Representative Bitney, Chair
Representative Roberts
Representative Jent

MOTIONS

SB 461 - Senator Thomas moved the Conference Committee on **SB 461** be dissolved and that the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 461**. Motion carried. The President appointed the following members:

Senator Story, Chair
Senator DePratu
Senator Stonington

HB 558 - Senator Thomas moved the Conference Committee on **HB 558** be dissolved and that the President be authorized to appoint a new Conference Committee to meet with a like committee from the House to confer on Senate amendments to **HB 558**. Motion carried. The President appointed the following members:

Senator Mahlum, Chair
Senator Barkus
Senator Shea

FIRST READING AND COMMITMENT OF BILLS

The following House bill was introduced, read first time, and referred to committee:

HB 775, introduced by Laszloffy, referred to Taxation.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 35, introduced by Bixby, Small-Eastman, referred to Natural Resources.

HJR 37, introduced by Noennig, McGee, Wanzienried, Wheat, referred to Local Government.

HJR 40, introduced by Younkin, Gallus, referred to Natural Resources.

HJR 41, introduced by Lindeen, referred to Finance and Claims.

HJR 42, introduced by Lindeen, A. Olson, referred to Natural Resources.

HJR 43, introduced by Windy Boy, Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P.

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Clark, Cooney, Cyr, Dickenson, Dowell, Ellingson, Elliott, Facey, Franklin, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Haines, Hansen, Harris, Hedges, Jacobson, Jayne, Juneau, Kitzenberg, Lambert, Lange, Lenhart, Lindeen, Matthews, Musgrove, Newman, Parker, Raser, Small-Eastman, Tester, Toole, Wanzenried, Weiss, referred to Natural Resources.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Thomas moved the Senate stand in recess until the hour of 1:00 p.m. this day. Motion carried.

Senate recessed at 10:35 a.m.

Senate reconvened at 1:02 p.m.

Roll call. All members present except Senators Butcher and Sprague, excused.

REPORTS OF STANDING COMMITTEES

Correctly engrossed: **HB 608**.

Correctly enrolled: **SB 112, SB 138, SB 294, SB 320, SB 473, SB 478, SB 480, SR 10**.

Examined by the sponsor and found to be correct: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 473, SB 478, SB 480, SJR 18, SR 10**.

Signed by the President at 9:00 a.m., April 23, 2003: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 478, SB 480, SJR 18, SR 10**.

Signed by the Secretary of the Senate at 11:30 a.m., April 23, 2003: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 478, SB 480, SJR 18, SR 10**.

Signed by the Speaker at 11:40 a.m., April 23, 2003: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 478, SB 480, SJR 18**.

Delivered to the Governor for approval at 12:20 p.m., April 23, 2003: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 478, SB 480**.

Delivered to the Secretary of State at 1:30 p.m., April 23, 2003: **SJR 18**.

Signed by the President at 1:30 p.m., April 23, 2003: **SB 473**.

Signed by the Secretary of the Senate at 1:30 p.m., April 23, 2003: **SB 473**.

Signed by the Speaker at 1:25 p.m., April 23, 2003: **SB 473**.

Delivered to the Governor for approval at 1:38 p.m., April 23, 2003: **SB 473**.

TAXATION (DePratu, Chairman):

4/23/2003

HJR 38, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **Senate Bill 271**

Report No. 1, April 23, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 271** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

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And, recommend that **Senate Bill 271** (reference copy -- salmon) be amended as follows:

1. Title, line 4.

Strike: "AUTHORIZING"

Insert: "REQUIRING THAT"

2. Title, line 11.

Following: "INDUSTRY;"

Insert: "INCREASING THE DEBT LIMIT UNDER THE MUNICIPAL FINANCE CONSOLIDATION ACT; AUTHORIZING A LOAN TO THE DEPARTMENT OF REVENUE FOR THE REPLACEMENT SYSTEM; REQUIRING THE DEPARTMENT OF REVENUE TO IMPOSE AN ADMINISTRATIVE CHARGE FOR TAX COLLECTION SERVICES; REQUIRING THE ADMINISTRATIVE CHARGE TO BE DEPOSITED IN AN ACCOUNT TO BE USED TO PAY THE DEBT SERVICE ON LOANS ISSUED FOR THE REPLACEMENT SYSTEM; APPROPRIATING MONEY FOR DEPARTMENT OF REVENUE'S TRANSITION COSTS AND FOR LOAN REPAYMENT;"

3. Title, line 12.

Following: "~~15-30-249~~,"

Insert: "15-1-501, 17-5-1608, 17-5-2001,"

4. Title, line 14.

Strike: "A CONTINGENT"

5. Title, line 15.

Strike: "DATE"

Insert: "DATES"

6. Page 1, line 21.

Strike: "MAY"

Insert: "shall"

7. Page 1, line 24.

Strike: "MAY"

Insert: "must"

8. Page 1, line 28.

Strike: "MAY"

Insert: "shall"

9. Page 5, line 19.

Insert: "**Section 2.** Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes.(1) The Except as provided in subsection (5), the state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3) all money received from the collection of:

- (a) income taxes, interest, and penalties collected under chapter 30;
- (b) all taxes, interest, and penalties collected under chapter 31;
- (c) oil and natural gas production taxes distributed to the general fund under 15-36-324;
- (d) electrical energy producer's license taxes under chapter 51;
- (e) the retail telecommunications excise tax collected under Title 15, chapter 53, part 1;

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- (f) liquor license taxes under Title 16;
- (g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;
- (h) estate taxes under Title 72, chapter 16; and
- (i) fees based on the value of currency on deposit and tangible personal property held for safekeeping by a foreign capital depository as provided in 15-31-803.

(2) The department shall also deposit to the credit of the state general fund all money received from the collection of license taxes and all net revenue and receipts from all sources, other than certain fees, under the operation of the Montana Alcoholic Beverage Code.

(3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded.

(5) The administrative assessment provided for in [section 5] must be deposited in an account in the state special revenue fund to the credit of the department."

Insert: "Section 3. Section 17-5-1608, MCA, is amended to read:

"17-5-1608. (Temporary) Limitations on amounts. The board may not issue any bonds or notes that cause the total outstanding indebtedness of the board under this part, except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101, to exceed ~~\$80~~ \$120 million. (Terminates June 30, 2011--sec. 9, Ch. 394, L. 2001.)

17-5-1608. (Effective July 1, 2011) Limitations on amounts. The board may not issue any bonds or notes that cause the total outstanding indebtedness of the board under this part, ~~(except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101),~~ to exceed ~~\$75~~ \$120 million.""

Insert: "Section 4. Section 17-5-2001, MCA, is amended to read:

"17-5-2001. (Temporary) Loans to state agencies. (1) An agency responsible for the procurement and provision of vehicles, automated systems, and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

- (a) the term of the indebtedness does not exceed the useful life of the items being financed; and
- (b) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise.

(2) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$4.5 million, payable over a term not to exceed 10 years, for financing the cost of an information technology system for the production and maintenance of motor vehicle title and registration records and driver's license records.

(b) For purposes of the financing of the motor vehicle information technology system, loans are payable from the money in the motor vehicle information technology system account as provided in 61-3-550. The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue of the motor vehicle information technology system account, based upon the fees approved by the legislature, must be sufficient to repay the indebtedness over the proposed term.

- (3) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of

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indebtedness with the board of investments for an amount not to exceed \$1,120,000, payable over a term not to exceed 7 years, for the acquisition of video gambling automated accounting and reporting system data collection units.

(b) The loan is payable from the department of justice's annual appropriation from the general fund.

(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the department of justice's base budget appropriation from the general fund must be sufficient to repay the indebtedness with respect to the video gambling data collection units over the proposed term of the loan.

(d) The loan is subject to the risk of nonappropriation.

(4) (a) If bonds are not issued for the project authorized in [section 1], the department of revenue is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$17 million, payable over a term not to exceed 7 years, for the acquisition of a replacement system for the process oriented integrated system (POINTS) computer system.

(b) The loan is payable from the department of revenue's appropriation from the administrative assessment provided for in [section 5].

(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue from the administrative assessment provided for in [section 5] must be sufficient to repay the indebtedness with respect to the replacement system over the proposed term of the loan.

(d) The loan is subject to the risk of nonappropriation.

(Terminates June 30, 2011--sec. 9, Ch. 394, L. 2001.)

17-5-2001. (Effective July 1, 2011) Loans to state agencies. An agency responsible for the procurement and provision of vehicles and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

(1) the term of the indebtedness does not exceed the useful life of the items being financed; and

(2) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise."

"NEW SECTION. Section 5. Administrative assessment. The department shall establish a fee of up to 0.45% of selected taxes collected by the department in order to recover costs and expenses associated with the POINTS replacement system described in [section 1]. The fee must be set annually to provide revenue equal to the debt service on the bonds authorized in 17-5-1608 or the projected principal and interest payments on the loan provided for in 17-5-2001.

(2) The department shall deposit the fee in an account in the state special revenue fund to the credit of the department.

(3) The department may adopt rules for identifying which taxes the administrative fee applies to and establishing the rate of the fee.

Renumber: subsequent sections

10. Page 13, line 16.

Insert: "NEW SECTION. Section 11. Deposit of loan proceeds -- capital projects appropriation. (1) The proceeds of any loan from the board of investments to the department of revenue for replacement of the POINTS computer system must be deposited in the capital projects fund.

(2) There is appropriated from the capital projects fund to the department of administration up to \$17 million for the replacement system described in [section 1].

(3) The department of revenue and the department of administration are prohibited from using any of the proceeds from the loan for the replacement system authorized by [section 1] for agency current level operating expenses. Loan proceeds appropriated under this section may be expended for project administration and implementation, including software and required hardware, software licensing, and extraordinary personal and

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contracted services.

(4) The appropriation continues until June 30, 2005."

"NEW SECTION. Section 12. Appropriation. (1) There is appropriated from the general fund to the department of revenue \$2,391,385 for the biennium ending June 30, 2005. This appropriation is to provide for the replacement of POINTS and the transfer of responsibility for unemployment insurance collections to the department of labor and industry. The department of revenue may use the appropriated funds for expenses necessary to ensure the smooth transition of existing POINTS data and systems to the replacement systems, including expenses for training, personal and contracted services, data and software cleanup, clearing backlog, correcting and realigning tax and collection data, preparing and executing conversion strategies, maintaining currency, and converting historic data.

(2) There is appropriated \$1.9 million from the state special revenue account for administrative assessments provided for in [section 5] to the department of revenue for the biennium ending June 30, 2005, for the payment of debt service on the bonds authorized in 17-5-1608 or the projected principal and interest payments on the loan provided for in 17-5-2001.

Insert: **"NEW SECTION. Section 13. Codification instruction.** [Sections 1 and 5] are intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [sections 1 and 5]."

Renumber: subsequent sections

11. Page 13, line 25.

Strike: **"SUBSECTION (2)"**

Insert: "subsections (2) and (3)"

12. Page 13, line 26.

Strike: **"4 THROUGH 6"**

Insert: "8 through 10"

13. Page 13, line 28.

Insert: "(3) [Sections 2, 5, and 12] are effective July 1, 2003."

14. Page 13, line 29.

Strike: **"3"**

Insert: "7"

15. Page 14, line 4.

Insert: **"NEW SECTION. Section 18. Termination.** [Sections 1, 4, and 5] terminate June 30, 2011."

For the Senate:

Glaser, Chairman
Stapleton
Elliott (unsigned)

For the House:

Brueggeman, Chairman
Pattison
Wanzenried

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 349**
Report No. 1, April 22, 2003

Mr. President and Mr. Speaker:

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We, your Conference Committee met and considered House amendments to **Senate Bill 349** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 349** (reference copy -- salmon) be amended as follows:

1. Page 2, line 5 through line 20.

Following: "insurance" on line 5

Strike: remainder of line 5 through "INSURER" on line 20

Insert: "means a denial, nonrenewal, or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of coverage of any insurance, existing or applied for, in connection with the underwriting of personal insurance"

2. Page 3, lines 11 and 12.

Following: "insured." on line 11

Strike: remainder of line 11 through "SCORE." on line 12

3. Page 3, line 13 through line 15.

Strike: subsection (9) in its entirety

4. Page 3, line 21.

Following: "~~solely~~"

Insert: "solely"

5. Page 3, line 22.

Strike: "AND SUBSTANTIALLY WEIGHING"

Insert: "any"

Strike: "FACTORS"

Insert: "factor"

6. Page 3, line 24.

Following: "renewal"

Insert: "renewal"

Following: "~~solely~~"

Insert: "solely"

7. Page 3, line 25.

Strike: "AND SUBSTANTIALLY WEIGHING"

Insert: "any"

Strike: "FACTORS"

Insert: "factor"

8. Page 3, line 27.

Following: "~~solely~~"

Insert: "solely"

9. Page 3, line 28.

Strike: "AND SUBSTANTIALLY WEIGHING"

Insert: "any"

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Strike: "FACTORS"

Insert: "factor"

10. Page 4, line 5.

Following: "criteria"

Insert: "unless the insurer does one of the following:

(a) treats the consumer as otherwise approved by the commissioner if the insurer presents information that the absence or inability relates to the risk for the insurer;

(b) treats the consumer as if the consumer had neither positive nor negative credit information, as defined by the insurer; or

(c) excludes the use of credit information as a factor and uses only other underwriting criteria"

11. Page 4, line 21.

Following: line 20

Insert: "(i) the insurer is treating the consumer as otherwise approved by the commissioner;"

Renumber: subsequent subsections

12. Page 4, line 30.

Strike: "THE NUMBER OF"

Insert: "promotional, account review, or account management"

13. Page 5, line 1.

Following: "information"

Insert: "or inquiries requested by the consumer for the consumer's own credit information"

14. Page 5, line 6.

Following: "or"

Insert: "or"

15. Page 5, lines 9 and 10.

Following: "considered" on line 9

Strike: remainder of line 9 through "DEBIT CARD" on line 10

16. Page 6, line 9.

Strike: "AT LEAST four"

Insert: "all"

17. Page 6, line 10.

Following: "factors"

Insert: ", up to four,"

18. Page 6, lines 13 and 14.

Following: "section" on line 13

Strike: remainder of line 13 through "EXPLANATION" on line 14

19. Page 6, line 15 through line 19.

Strike: subsection (3) in its entirety

Insert: "(3) provide the consumer with the following information, which must be included with the information

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provided to the consumer pursuant to subsection (2):

(a) examples of the kinds of information considered by the insurer in the development of the consumer's insurance score;

(b) the name and telephone number of the consumer reporting agency that the insurer used to obtain the consumer's credit information or the third party used to determine the insurance score; and

(c) notice of how the consumer may exercise the consumer's remedies under [sections 5(7) and 6]."

20. Page 6, line 23.

Strike: "MUST"

Insert: "may"

21. Page 6, lines 24 through 26.

Following: "CRITERION" on line 24

Strike: "AS REQUIRED IN"

Insert: "pursuant to"

Following: "33-16-203" on line 24

Strike: remainder of line 24 through "CODE" on line 26

22. Page 7, line 15.

Following: line 14

Insert: "(2) The restrictions provided in subsection (1) do not apply to data or lists that the consumer reporting agency supplies to the insurance producer from whom information was received, the insurer on whose behalf the insurance producer acted, or the insurer's affiliates or holding companies."

Renumber: subsequent subsection

For the Senate:

Anderson, Chairman

Grimes

Cocchiarella (unsigned)

For the House:

Steinbeisser, Chairman

Rome

Keane (unsigned)

FREE CONFERENCE COMMITTEE
on **Senate Bill 487**
Report No. 1, April 23, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 487** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 487** (reference copy -- salmon) be amended as follows:

1. Title, lines 8 and 9.

Following: "PROJECT;" on line 8

Strike: remainder of line 8 through "PROJECT;" on line 9

Following: "AND"

Insert: "AND"

Strike: "90-5-101,"

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2. Page 3, lines 1 through 4.

Strike: "\$800" on line 1

Insert: "\$100"

Following: "million." on line 1

Strike: remainder of line 1 through "MILLION." on line 4

3. Page 3, line 10.

Strike: "\$600"

Insert: "\$50"

4. Page 4, line 21.

Insert: "(7) The board is encouraged to consider applications for project financing related to infrastructure and facilities necessary for the development of the state-owned coal assets."

5. Page 4, line 22 through page 6, line 5.

Strike: section 4 in its entirety

Renumber: subsequent sections

6. Page 6, line 9.

Strike: "THROUGH 4"

Insert: "and 3"

7. Page 6, line 11.

Strike: "5"

Insert: "4"

For the Senate:

Johnson, Chairman

Pease

Laible

For the House:

Bitney, Chairman

Mendenhall

Small-Eastman

MESSAGES FROM THE GOVERNOR

April 23, 2003

The Honorable Bob Keenan

President of the Senate

State Capitol

Helena, Montana 59620

Dear Senator Keenan:

This letter is formal notice that I will be making an announcement of the Supreme Court Justice appointment on Thursday, April 24, 2003, and request that the Senate confirm this nomination before adjournment.

Thank you for your assistance with this confirmation and please let me know if you have any questions.

Sincerely,

STATE INTERNET/BBS COPY

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JUDY MARTZ
Governor

April 23, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Re: SB 46

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 46, "**AN ACT REMOVING THE REQUIREMENT THAT A COUNTY MUST ENTER INTO A CONTRACT FOR CERTAIN LARGE PURCHASES OR CONSTRUCTION CONTRACTS; AMENDING SECTION 7-5-2301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE,**" without my signature and recommend the attached amendment for the following reasons:

I have no concerns with the objectives of Senate Bill No. 46, or with its specific measures. I recommend, however, that Section 7-5-2301, MCA, be amended to include an additional provision: (4) A person who wishes to challenge a county's determination to perform work or purchase the items referred to in subsection (1) without entering into a contract may request the financial information relied upon by the county in making the decision.

I have enclosed my amendment to that effect. Please be advised that Senator Gebhardt, the sponsor of the bill, has been informed of my recommendation and has no objections.

I urge your concurrence in the amendment.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 46

1. Page 1, line 19.

Insert: "(4) A person who wishes to challenge a county's determination to perform work or purchase the items referred to in subsection (1) without entering into a contract may request the financial information relied upon by the county in making the decision."

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The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Re: SB 406

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 406, "**AN ACT PROVIDING THAT A CORNER RECORD MAY BE FILED IN LIEU OF A CERTIFICATE OF SURVEY IN CERTAIN INSTANCES; REQUIRING THAT THE COUNTY CLERK PROVIDE AN INDEX; PROVIDING THAT PARCELS CREATED FOR RIGHTS-OF-WAY OR UTILITY SITES ARE EXEMPT FROM THE SUBDIVISION REVIEW PROCESS UNLESS THERE IS A SUBSEQUENT CHANGE IN LAND USE; PROVIDING GUIDANCE ON EXEMPTIONS THAT ARE CREATED TO PROVIDE SECURITY FOR MORTGAGES, LIENS, OR TRUST INDENTURES; AND AMENDING SECTIONS 70-22-105, 70-22-109, 76-3-201, AND 76-3-404, MCA,**" without my signature and recommend the attached amendment for the following reasons.

Senate Bill No. 406 modifies what has become known as the "mortgage exemption." Under this exemption, subdivisions of land that are created by mortgages, liens, or trust indentures are not subject to review under the Subdivision and Platting Act or the Sanitation in Subdivisions Act. (For purposes of this letter, I will use the term "mortgage" to refer to mortgages, liens, and trust indentures.) Under current law, the mortgage exemption is applicable at the time the mortgage is created and creates the subdivided parcel.

Senate Bill No. 406, as initially introduced, provided in effect that the mortgage exemption would cease to exist if the subdivided parcel were transferred to a person other than the financial or lending institution that holds the mortgage or to the purchaser in a foreclosure. The effect of this language was to provide that, even though the creation of the parcel was not subject to review, the parcel would be reviewed at the time of transfer unless the transfer was made to satisfy the security interest. Thus, parcels created by a mortgage and transferred to satisfy the mortgage would never be subject to review.

Unfortunately, the limitation language described above was amended to provide that the mortgage exemption applies only if the property is conveyed to the financial or lending institution or the purchaser in foreclosure. Although the purpose of this amendment was to make the language more readable, the effect is to apply the exemption at the time of transfer of the parcel pursuant to the mortgage, not at the time of creation of the parcel by the mortgage. For this reason, under the amended language, the creation of parcel by mortgage would always trigger subdivision review, even if the parcel were later transferred to satisfy the mortgage. The mortgage exemption would therefore be ineffective.

My proposed amendments would ensure that parcels created by mortgage and transferred to satisfy the mortgage would not be subject to review. Please be advised that the Department of Environmental Quality concurs with this amendment. Further, please be advised that Senator McGee, the sponsor of the bill, has been informed of my recommendation and has no objections.

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I urge your concurrence in the amendments.
Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 406

1. Page 2, line 30.
Strike: "ONLY"
Following: "not"
Insert: "not"
Following: "than"
Insert: "any entity other than"

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate: 4/23/2003

SB 489, introduced by Elliott

Senate joint resolution concurred in and returned to the Senate: 4/23/2003

SJR 31, introduced by Tash

SB 461 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 461**:

4/23/2003

Representative Devlin, Chair
Representative Lake
Representative Forrester

Senate amendments to House bills **concurred** in: 4/23/2003

HB 261, introduced by Haines
HB 539, introduced by Brueggeman
HB 722, introduced by E. Clark
HB 767, introduced by Brueggeman

Senate amendments to House joint resolution **concurred** in: 4/23/2003

HJR 2, introduced by Devlin

House joint resolution passed and transmitted to the Senate for concurrence: 4/23/2003

HJR 44, introduced by Fritz

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FIRST READING AND COMMITMENT OF BILLS

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 44, introduced by Fritz, referred to Business and Labor.

MOTIONS

HB 13 - Senator Thomas moved the Senate reconsider its action in adopting the Free Conference Committee Report on **HB 13** on second reading this day, and that the bill be placed back on second reading the eighty-seventh legislative day. Motion carried.

HB 424 - Senator Thomas moved the Senate accede to the request of the House that the Conference Committee on **HB 424** be dissolved, and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 424**. Motion carried. The President appointed the following members:

Senator Taylor, Chair
Senator Perry
Senator Toole

Senator Thomas moved the Senate stand in recess until the hour of 2:00 p.m. this day for party caucuses. Motion carried.

Senate recessed at 1:30 p.m.
Senate reconvened at 2:04 p.m.

MESSAGES FROM THE GOVERNOR

April 23, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 458** sponsored by Senator McNutt et al. on April 23, 2003.

Sincerely,

JUDY MARTZ
Governor

MOTIONS

Senator Thomas moved the Senate stand at ease until the hour of 3:00 p.m. this day. Motion carried.

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3:40 p.m. Roll call. All members present except Senators Cocchiarella, Sprague and Taylor, excused.

REPORTS OF STANDING COMMITTEES

LOCAL GOVERNMENT (Bohlinger, Chairman):
HJR 37, be concurred in. Report adopted.

4/23/2003

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **Senate Bill 314**
Report No. 1, April 23, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 314** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 314** (reference copy -- salmon) be amended as follows:

1. Title, line 7 through line 8.

Strike: "WHICH" on line 7 through "IS" on line 8

Following: "FUNDS"

Insert: "OR REMAINING TOBACCO SETTLEMENT PROCEEDS"

2. Title, line 9.

Following: line 8

Insert: "AND"

Following: "MCA"

Strike: remainder of line 9 through "DATE"

3. Page 1, line 14.

Strike: "To"

Insert: "Except as provided in subsection (5), to"

4. Page 1, line 16.

Strike: "18"

Insert: "17"

5. Page 2, line 3.

Following: "FUNDS"

Insert: "or tobacco settlement proceeds as provided in subsection (5)(c)"

6. Page 2, line 4.

Following: "IF"

Insert: "the child is 18 years of age or younger and"

7. Page 2, line 5.

Strike: "(1)(A) AND"

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8. Page 2, line 8 through line 13.

Strike: subsection (c) in its entirety

Insert: "(c) Tobacco settlement proceeds not otherwise appropriated from the two state special revenue accounts provided for in 17-6-606(2) and (3) are allocated to the program for use as matching funds for the purposes of subsection (5)(a) for the program for the biennium ending June 30, 2005."

9. Page 2, line 16.

Strike: section 2 in its entirety

For the Senate:

Stapleton, Chairman
Esp
McCarthy

For the House:

E. Clark, Chairman
B. Thomas
Raser (unsigned)

FREE CONFERENCE COMMITTEE
on **House Bill 559**
Report No. 1, April 23, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 559** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 559** (reference copy -- salmon) be amended as follows:

1. Page 2, line 22.

Strike: "\$4"

Insert: "\$5"

2. Page 2, line 28.

Strike: "\$3"

Insert: "\$2.75"

3. Page 3, line 3.

Strike: "\$3"

Insert: "\$3.65"

4. Page 3, line 5.

Strike: "\$6"

Insert: "\$7.50"

5. Page 3, line 28.

Strike: "FOR" through "YEAR" in their entirety

6. Page 4, line 2.

Following: "61-3-527"

Insert: ", 61-3-530,"

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7. Page 6, line 3.

Strike: "canoe, kayak,"

Strike: ", rubber raft,"

8. Page 14, line 15.

Strike: "and" through "year"

9. Page 16, line 15.

Following: "and,"

Insert: "except as provided in subsection (2),"

10. Page 21, line 17 through line 18.

Strike: "EACH" on line 17 through "sequence." on line 18

11. Page 21, line 27.

Insert: "(8) The fee imposed in subsection (3) is a one-time fee except on change of ownership. When ownership of the snowmobile changes, the new owner must pay the fee in subsection (3)."

12. Page 30, line 23.

Strike: "\$19"

Insert: "\$17"

13. Page 31, line 4.

Strike: "\$24"

Insert: "\$22"

14. Page 32, line 13.

Strike: "(I)"

Following: "~~(6)(a)~~:"

Insert: "The following vehicles are not subject to the fee imposed in subsection (6)(a):"

15. Page 32, line 14.

Following: "~~(i)~~"

Insert: "(i)"

Strike: "TRAILERS"

Insert: "trailers"

16. Page 32, line 15.

Strike: "ARE" through "(6)(A)."

Insert: "; and"

17. Page 32, line 16.

Strike: "TRAVEL"

Insert: "travel"

18. Page 32, line 17 through line 18.

Strike: "ARE" on line 17 through "OWNERSHIP" on line 18

19. Page 39, line 7.

Following: "disability."

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Insert: "If the vehicle to which the license plate is attached is permanently registered, the owner of the vehicle shall maintain evidence of continued eligibility to use the license plate, which must attached to the registration document in the vehicle."

20. Page 45, line 30.

Following: "disability."

Insert: "If the vehicle to which the license plate is attached is permanently registered, the owner of the vehicle shall maintain evidence of continued eligibility to use the license plate, which must attached to the registration document in the vehicle."

21. Page 50, lines 28 and 29.

Strike: "OR TRAVEL TRAILER"

22. Page 54, line 13.

Insert: "(4) A person who permanently registers a trailer, pole trailer, or semitrailer as provided in this section shall pay an additional one-time fee of \$1.25 at the time of registration for deposit in the state general fund. The department shall pay from the general fund an amount equal to the \$1.25 fee collected under this section from each vehicle registration to the pension trust fund for payment of supplemental benefits provided for in 19-6-709."

23. Page 58, line 5 through line 11.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

24. Page 58, line 14 through line 15.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

25. Page 62, line 4.

Strike: "34"

Insert: "33"

26. Page 62, line 5.

Strike: "42"

Insert: "41"

For the House:

Brueggeman, Chairman
Musgrove
Gallus

For the Senate:

Glaser, Chairman
Story
Elliott (unsigned)

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/23/2003

SB 485, introduced by Cobb

SB 490, introduced by Grimes

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Governor's amendments to House bill **not** concurred in and returned to the Senate: 4/23/2003

HB 247, introduced by Harris

Free Conference Committee Report No.1 **not** adopted: 4/23/2003

HB 13, introduced by Lewis

MOTIONS

SB 407- Senator Thomas moved the Conference Committee on **SB 407** be dissolved and that **SB 407** be placed on second reading the eighty-seventh legislative day. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Thomas, Zook, Mr. President.
Total 25

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: Grimes, Sprague, Taylor.
Total 3

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Thursday, April 24, 2003. Motion carried.

Senate adjourned at 4:00 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
April 24, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the eighty-sixth legislative day.

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Tash, Chairman):

4/24/2003

HJR 35, be concurred in. Report adopted.

HJR 40, be concurred in. Report adopted.

HJR 43, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

April 23, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

RE: **Senate Bill 46**

Dear Senator Keenan:

I am requesting that you return Senate Bill 46 and the proposed amendatory veto to the Governor's Office for further consideration.

Sincerely,

JUDY MARTZ
Governor

April 23, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

RE: **Senate Bill 370**

Dear Senator Keenan:

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I am requesting that you return Senate Bill 370 and the proposed amendatory veto to the Governor's Office for further consideration.

Sincerely,

JUDY MARTZ
Governor

MOTIONS

SB 46 and SB 370 - Senator Thomas moved the Senate accede to the request of the Governor to return **SB 46** and **SB 370** for further consideration. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 252 - Free Conference Committee Report No. 1 - Senator Butcher moved the Free Conference Committee report to **SB 252** be adopted. Senator Squires made a **substitute motion** that the Free Conference Committee Report be **not** adopted. After discussion, Senator Squires' substitute motion on **SB 252** was moved below SB 407 on the second reading board.

SB 270 - Governor's Amendments - Senator Harrington moved Governor's amendments to **SB 270** be concurred in. Motion carried unanimously.

SB 271 - Free Conference Committee Report No. 1 - Senator Stapleton moved the Free Conference Committee report to **SB 271** be adopted. Motion carried unanimously.

SB 336 - Conference Committee Report No. 1 - Senator Mahlum moved the Conference Committee report to **SB 336** be adopted. Motion carried as follows:

Yeas: Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, DePratu, Ellingson, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Thomas, Toole, Tropila, Mr. President.

Total 30

Nays: Anderson, Bales, Cobb, Cromley, Curtiss, Elliott, Esp, Johnson, McGee, O'Neil, Perry, Roush, Story, Tash, Taylor, Tester, Wheat, Zook.

Total 18

Absent or not voting: None.

Total 0

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Excused: Glaser, Stapleton.
Total 2

SB 349 - Senator Anderson moved consideration of **SB 349** be passed for the day. Motion carried.

SB 381 - Governor's Amendments - Senator Keenan moved Governor's amendments to **SB 381** be concurred in. Motion carried unanimously.

SB 406 - Governor's Amendments - Senator McGee moved Governor's amendments to **SB 406** be concurred in. Motion carried unanimously.

SB 407 - Senator Elliott rose on a point of parliamentary procedure concerning whether or not SB 407 was properly before the Senate. Since a Conference Committee report was not read across the rostrum, he thought the Senate needed to reconsider its action, and that the rules would have to be suspended to bring it to the floor. Senator Thomas stated that it was properly before the Senate. Senator Elliott suggested it was time to call a meeting of the Rules Committee.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Majority Leader Thomas moved the Senate stand in recess for a Rules meeting, until the call of the chair. Motion carried.

Senate recessed at 10:05 p.m.
Senate reconvened at 10:56 a.m.

Roll call: All members present. Quorum present.

MOTIONS

SB 407 - Senator Stapleton moved **SB 407, with House Amendments**, be placed on second reading this day. After discussion, Senator Tester made a **substitute motion** that the motion to place SB407 with House amendments on second reading was improper. President Keenan ruled Senator Tester's motion was out of order. Senator Tester then made a **substitute motion** that the Senate reconsider its action in adopting Senator Thomas's motion the previous day to put SB 407 on second reading this day. Senator Grimes called for the previous question. President Keenan ruled the question was in order.

Senator Tester's motion **failed** by the following vote:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

The Senate then reverted to Senator Stapleton's motion that **SB 407, with House Amendments**, be placed on second reading this day. Motion **carried** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MESSAGES FROM THE GOVERNOR

April 24, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Re: SB 370

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 370, "**AN ACT REVISING WHICH ENTITIES PAY FOR THE MEDICAL EXPENSES OF INMATES HELD IN COUNTY DETENTION FACILITIES; PROVIDING CIRCUMSTANCES UNDER WHICH THE INMATE IS RESPONSIBLE FOR PAYMENT; REQUIRING THE HEALTH CARE PROVIDER TO COLLECT PAYMENTS FOR TREATMENT FROM INMATES WHO ARE ABLE TO PAY; PROVIDING CIRCUMSTANCES UNDER WHICH THE COUNTY IS RESPONSIBLE FOR PAYMENT; AMENDING SECTIONS 7-32-2222 AND 7-32-2245, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons:

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I have no concerns with the objectives of Senate Bill No. 370, or with its specific measures. I recommend, however, that Section 2 (3)(C) be amended to read that if the health care provider is reimbursed by the third-party payor or by the inmate or after the provider has been reimbursed by the county, the provider shall refund to the county the amount that the provider had been paid by the county for the services provided to the inmate.

I have enclosed my amendment to that effect. Please be advised that Senator Gebhardt, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO **SENATE BILL 370**

1. Page 3, line 2.

Following: "BY"

Insert: "the inmate or"

April 24, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that effective May 2, 2003, I have appointed the following individual as Supreme Court Judge of the Montana Supreme Court, in accordance with Montana Code Annotated 3-1-1011:

The Honorable John Arnan Warner, District Court Judge
906 6th Avenue, Havre, MT 59501,

who fulfills the qualifications for being a nominee of the Judicial Nomination Commission.

I am attaching a copy of Judge Warner's biographical information for your convenience when considering Senate confirmation.

If you have questions regarding this appointment, please call Susan Ames, Appointments Advisor, at extension 0575.

Sincerely,

JUDY MARTZ
Governor

MOTIONS

SB 370 - Senator Mangan moved consideration of **SB 370 with Governor's amendments** be placed on second reading on a second agenda this legislative day. Motion passed unanimously.

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HB 42 - Senator Bales moved the Senate recall **HB 42** from the House of Representatives for reconsideration. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 39

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Harrington, McCarthy, Schmidt, Squires, Toole, Wheat.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Thomas moved the Senate stand in recess until the hour of 1:15 p.m. this day. Motion carried.

Senate recessed at 11:52 a.m.
Senate reconvened at 1:18 p.m.

Roll call. All members present except Senator Sprague, excused. Quorum present.

MESSAGES FROM THE GOVERNOR

April 24, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 76** sponsored by Senator Schmidt., **Senate Bill 89** sponsored by Senator Tash, **Senate Bill 115** sponsored by Senator Mahlum, **Senate Bill 194** sponsored by Senator Tash et al., **Senate Bill 230** sponsored by Senator Cromley, **Senate Bill 232** sponsored by Senator Mahlum, **Senate Bill 282** sponsored by Senator Squires, **Senate Bill 288** sponsored by Senator Mangan, **Senate Bill 321** sponsored by Senator Laible, **Senate Bill 337** sponsored by Senator Tropila, **Senate Bill 400** sponsored by Senator Toole et al., **Senate Bill 441** sponsored by Senator D. Ryan, and **Senate Bill 444** sponsored by Senator Tester on April 24, 2003.

Sincerely,

JUDY MARTZ
Governor

April 24, 2003

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The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Re: HB 701

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby **veto** House Bill 701, "**AN ACT REVISING PROVISIONS OF THE JUDICIAL BRANCH PERSONNEL PLAN TO EXCLUDE PERSONAL STAFF OF A JUSTICE, JUDGE, AND THE CLERK OF THE SUPREME COURT; PROVIDING THAT A JUSTICE, JUDGE, OR THE CLERK OF THE SUPREME COURT MAY APPOINT UP TO THREE PERSONAL STAFF MEMBERS; AMENDING SECTIONS 3-1-130 AND 3-2-501, MCA; AND PROVIDING AN EFFECTIVE DATE**" for the following reasons:

House Bill No. 701 has significant long-term fiscal impacts. This bill's fiscal impact cannot be determined, but likely will be significant. House Bill No. 701 would allow hiring authorities--all District Court judges, Supreme Court justices, and the Clerk of the Supreme Court--to set the salary for up to 3 employees each at any level within the salary range for the employees' position classification, including the maximum salary available. Currently, most of the potentially affected employee positions are not at or near the maximum salary available for the position classification--this bill clearly gives very broad discretion to significantly increase the personal services portion of the Judicial Branch's budget. The Judicial Branch is unable to predict the salary increases that might result from this legislation. At my request, however, the Judicial Branch provided the salary ranges for the potentially affected positions. The narrowest of the ranges is approximately \$14,000, and the broadest range is approximately \$23,000. This legislation would permit each hiring authority to move up to 3 employees to the maximum salary for their position.

House Bill No. 701 strips employee rights. House Bill No. 701 would remove up to 150 Judicial Branch employees from the current Judicial Branch personnel policies. This could result in approximately 44 percent of court employees being deprived of the usual employee rights to progressive discipline, termination only with cause, and, ultimately, wrongful discharge recourse. This is not acceptable. The Legislative Branch, which is like the Judicial Branch in having many elected officials across the state, has only 2 employees (1.7%) who are totally exempt from all employment rights.

By way of background, Section 59, Ch. 585, L. 2001, provides that all but 2 non-elected Judicial Branch employees, including district court employees, become subject to the overall judicial plan of personnel administration adopted by the Supreme Court as required by [section 1] [3-1-130]. The plan must include, but is not limited to, classification and pay, recruitment and selection, performance appraisal, training and promotion. In compliance with Section 3-1-130, MCA, the Supreme Court adopted a classification and compensation plan, and separately adopted personnel policies. It is these two pieces that make-up the overall judicial personnel plan.

Clearly, House Bill No. 701 impacts on both areas, as discussed briefly above. The fiscal impact will be substantial and Judicial Branch employee rights, some of which existed before state assumption when the employees were county employees, will be overturned. Neither aspect of the bill is acceptable to me.

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For these reasons, I **veto** House Bill No. 701.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to Senate bills **concurred in** and returned to the Senate: 4/24/2003

SB 101, introduced by Mahlum
SB 325, introduced by McGee
SB 408, introduced by Nelson
SB 429, introduced by Esp

Senate bill concurred in and returned to the Senate: 4/24/2003

SB 492, introduced by Johnson

Senate joint resolutions concurred in and returned to the Senate: 4/24/2003

SJR 29, introduced by Toole
SJR 32, introduced by Grimes

Governor's amendments to House bills **concurred in** and transmitted to the Senate for concurrence in the Governor's amendments:

4/24/2003

HB 5, introduced by Kasten
HB 218, introduced by Bookout-Reinicke
HB 609, introduced by Windy Boy

House joint resolution passed and transmitted to the Senate for concurrence: 4/24/2003

HJR 45, introduced by Small-Eastman

Senate amendments to House bills **concurred in**: 4/24/2003

HB 90, introduced by E. Clark
HB 727, introduced by E. Clark

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

4/24/2003

SB 415, introduced by F. Thomas

This amended bill is being returned after the deadline for General Bills. Joint rule 40-200 requires a 2/3 vote for the bill to be considered by the receiving house.

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FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 11, introduced by Grimes (by request of the Senate Judiciary Standing Committee), referred to Judiciary.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 45, introduced by Small-Eastman, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 487 - Free Conference Committee Report No. 1 - Senator Pease moved the Free Conference Committee report to **SB 487** be adopted. Motion carried unanimously.

SJR 17 - House Amendments - Senator Tester moved House amendments to **SJR 17** be concurred in. Motion carried unanimously.

HB 247 - Governor's Amendments - Senator Mangan moved Governor's amendments to **HB 247** be concurred in. Motion carried unanimously.

HJR 37 - Senator Wheat moved **HJR 37** be concurred in. Motion carried with Senator Esp voting nay.

SB 314 - Free Conference Committee Report No. 1 - Senator Stapleton moved **consideration** of the Free Conference Committee report to **SB 314 be passed for the day**. Motion carried unanimously.

SB 252 - Free Conference Committee Report No. 1 - Senator Squires moved consideration of **SB 252** be **indefinitely postponed**. Motion carried as follows:.

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: Mangan, Tash.
Total 2

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Excused: Sprague.
Total 1

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 3:00 p.m. this day. Motion carried.

Senate recessed at 1:52 p.m.
Senate reconvened at 3:04 p.m.

Roll call. All members present except Senators Harrington and Sprague, excused. Quorum present.

SPECIAL ORDERS OF THE DAY

Senator Grimes introduced Governor Judy Martz, Chief Justice Karla Gray, and the new Justice, The Honorable John Arnan Warner, and his wife.

Senator Harrington present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly enrolled: **SB 101, SB 325, SB 384, SB 399, SB 408, SB 429, SB 446, SB 464, SB 489, SB 491, SJR 13, SJR 31.**

Examined by the sponsor and found to be correct: **SB 384, SB 399, SB 446, SB 464, SB 491.**

Signed by the President at 9:00 a.m., April 24, 2003: **SB 384, SB 399, SB 446, SB 464, SB 491.**

Signed by the Secretary of the Senate at 10:00 a.m., April 24, 2003: **SB 384, SB 399, SB 446, SB 464, SB 491.**

Signed by the Speaker at 10:05 a.m., April 24, 2003: **SB 384, SB 399, SB 446, SB 464, SB 491.**

Delivered to the Governor for approval at 10:30 a.m., April 24, 2003: **SB 384, SB 399, SB 446, SB 464, SB 491.**

FINANCE AND CLAIMS (Zook, Chairman): 4/24/2003
HB 19, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman): 4/24/2003
SR 11, be adopted. Report adopted.

TAXATION (DePratu, Chairman): 4/24/2003
HB 775, be concurred in. Report adopted.

MOTIONS

Senator Thomas moved to suspend the rules to allow consideration of **SR 11** to be placed on the board this legislative day. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss,

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DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

SPECIAL ORDERS OF THE DAY

SR 11 - Senator Grimes moved **SR 11** concurring in, confirming, and consenting to the nomination and appointment made by the Governor and submitted to the Senate of the Honorable John Arnan Warner as Justice of the Montana Supreme Court be adopted, and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

The Honorable John Warner, Justice of the Montana Supreme Court, received a standing ovation from the Senate.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 107**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 107** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 107** (reference copy -- salmon) be amended as follows:

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1. Page 4, line 20 through line 21.

Strike: subsection (8) in its entirety

Renumber: subsequent subsection

2. Page 4, line 30 through page 5, line 1.

Strike: section 6 in its entirety

Renumber: subsequent section

For the House:

A. Olson, Chairman

Lehman

Galvin-Harcro

For the Senate:

Glaser, Chairman

Black

Elliott

MESSAGES FROM THE GOVERNOR

April 24, 2003

The Honorable Bob Keenan

President of the Senate

State Capitol

Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 143** sponsored by Senator Bohlinger and **Senate Bill 401** sponsored by Senator Wheat et al. on April 24, 2003.

Sincerely,

JUDY MARTZ

Governor

April 24, 2003

The Honorable Bob Keenan

President of the Senate

State Capitol

Helena, Montana 59620

The Honorable Doug Mood

Speaker of the House

State Capitol

Helena, Montana 59620

Re: SB 473

Dear President Keenan and Speaker Mood:

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In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 473, "**AN ACT PROVIDING FOR A PRESCRIPTION DRUG EXPANSION PROGRAM UNDER MEDICAID; AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO IMPLEMENT THE PRESCRIPTION DRUG EXPANSION PROGRAM UNDER MEDICAID; PROVIDING AN ANNUAL APPLICATION FEE FOR THE PROGRAM; AUTHORIZING A LOAN FROM THE BOARD OF INVESTMENTS FOR THE STARTUP COST OF THE PROGRAM; AND PROVIDING AN EFFECTIVE DATE**" for the following reasons:

I have no concerns with the objectives of Senate Bill No. 473, or with its specific measures. I recommend, however, that Section 2 (4) regarding prescription drug Expansion program rules be amended to read that the rules may be based upon rules adopted in other states to administer similar programs.

Further, I recommend that additional language be included in Section 4; and, I recommend that a termination date be included as new Section 13.

I have enclosed my amendments to that effect. Please be advised that Senator Elliott, the sponsor of the bill, has been informed of my recommendation and has no objection.

I urge your concurrence in the amendments.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 473

1. Title, line 9.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 3, line 3.

Strike: "MAINE"

Insert: "other states"

Strike: "a"

Strike: "program"

Insert: "programs"

3. Page 4, line 1.

Following: "**program.**"

Insert: "(1)"

4. Page 4, line 6.

Following: line 5

Insert: "(2) Information disclosed by manufacturers during negotiations and all terms and conditions negotiated between the director and manufacturers and all information requested or required under the program must be kept confidential, except as the department determines is necessary to carry out the program. The department shall comply with the budget neutrality provisions required by the United States department of health and human services

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for the granting of any waivers.

(3) The department may not use access restrictions, supplemental rebates, or a preferred drug list to comply with the budget neutrality provisions when negotiating with the federal government for this waiver. These restrictions do not apply to other components of the medicaid or mental health services plan or drugs provided in those programs. These restrictions apply only to the prescription drug expansion program provided for in [section 2]."

5. Page 5, line 7.

Insert: "NEW SECTION. Section 13.{standard} **Termination.** [Section 4(3)] terminates June 30, 2005."

April 24, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Re: SB 46

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby **veto** Senate Bill 46, "**AN ACT REMOVING THE REQUIREMENT THAT A COUNTY MUST ENTER INTO A CONTRACT FOR CERTAIN LARGE PURCHASES OR CONSTRUCTION CONTRACTS; AMENDING SECTION 7-5-2301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons:

After a review of the current law and discussions regarding the objectives and ramifications of this bill, I have decided to veto Senate Bill No. 46.

Current law requires counties to contract and have a competitive bid process for large projects. This allows private sector businesses to participate more significantly in major public projects and purchases which in turn provides a counter-balance. The current law provides continued benefits to the Montana taxpayer as well as keeps government operations more productive.

For these reasons, I **veto** Senate Bill 46.

Sincerely,

JUDY MARTZ
Governor

MOTIONS

HB 304 - Senator Thomas moved the Free Conference Committee to HB 304 be **dissolved** and that the President be

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authorized to appoint a new **Free** Conference Committee to meet with a like committee from the House to confer on **HB 304**. Motion carried. The President appointed the following members:

Senator Johnson, Chair
Senator Bales
Senator Tropila

SB 46 - Senator Gebhardt moved to override the Governor's veto of **SB 46**. Motion carried as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Taylor, Tester, Toole, Tropila, Wheat.
Total 34

Nays: Anderson, Bales, Barkus, Butcher, Glaser, Grimes, Laible, Mahlum, McGee, O'Neil, Stapleton, Tash, Thomas, Zook, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 3

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 559 - Free Conference Committee Report No. 1 - Senator Glaser moved the Free Conference Committee report to **HB 559** be adopted. Motion carried with Senators McGee and Roush voting nay.

SB 490 - House Amendments - Senator Grimes moved House amendments to **SB 490** be concurred in. Motion carried unanimously.

SB 370 - Governor's Amendments - Senator Gebhardt moved Governor's amendments to **SB 370** be concurred in. Motion carried unanimously.

SB 407 - House Amendments - Senator DePratu moved House amendments to **SB 407** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr.

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President.
Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted with Senators Toole, Mangan and Elliott voting nay.

MESSAGES FROM THE OTHER HOUSE

Free Conference Committee Report No.1 **not** adopted: 4/24/2003
SB 252, introduced by Squires

Conference Committee Report No. 1 **not** adopted:
SB 349, introduced by Anderson

Free Conference Committee Report No.1 adopted: 4/24/2003
SB 57, introduced by Keenan
SB 126, introduced by Story
SB 130, introduced by McGee
SB 326, introduced by McGee
SB 360, introduced by F. Thomas
SB 375, introduced by Elliott

Conference Committee Report No.1 adopted: 4/24/2003
SB 47, introduced by Gebhardt
SB 304, introduced by Johnson
SB 330, introduced by Mangan
SB 347, introduced by Keenan
SB 395, introduced by Perry

Free Conference Committee Report No.1 adopted: 4/24/2003
HB 190, introduced by Younkin
HB 197, introduced by Becker
HB 201, introduced by Jent
HB 211, introduced by Newman
HB 283, introduced by Fuchs
HB 298, introduced by Younkin
HB 509, introduced by A. Olson
HB 536, introduced by Brueggeman

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HB 564, introduced by Lindeen
HB 689, introduced by A. Olson
HB 720, introduced by Hurwitz
HJR 31, introduced by Facey

Conference Committee Report No.1 adopted:

4/24/2003

HB 56, introduced by B. Thomas
HB 259, introduced by Maedje
HB 277, introduced by Lindeen
HB 403, introduced by Keane
HB 642, introduced by Devlin
HB 680, introduced by Noennig

HB 363 - The House failed to concur in Senate amendments to **HB 363**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 363**:

4/24/2003

Representative R. Brown, Chair
Representative Sales
Representative Gillan

MOTIONS

HB 363 - Senator Thomas moved the Senate accede to the request of the House and the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 363**. Motion carried. The President appointed the following members:

Senator Barkus, Chair
Senator Thomas
Senator Cocchiarella

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Friday, April 25, 2003. Motion carried.

Senate adjourned at 6:07 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
April 25, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Sprague, excused. Quorum present. Senator Sprague has been hospitalized with pneumonia.

The presiding officer has authenticated the daily journal for the eighty-seventh legislative day.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 270, as amended by the Governor, passed as follows:

Yeas: Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 41

Nays: Anderson, Bales, Butcher, Esp, McGee, O'Neil, Perry, Taylor.
Total 8

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

SB 271, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Ellingson, Nelson, Tester, Toole.
Total 4

Absent or not voting: None.
Total 0

Excused: Sprague.

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Total 1

SB 336, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.

Total 35

Nays: Anderson, Bales, Butcher, Cromley, Curtiss, Elliott, Esp, Gebhardt, Johnson, McGee, O'Neil, Roush, Story, Wheat.

Total 14

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 370, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 381, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Sprague.
Total 1

SB 406, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

SB 407, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Paired: Sprague, Aye; Harrington, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 487, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

SB 490, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

SJR 17, as amended by the House, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 247, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Bales, Curtiss, McGee, Stapleton.

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Total 4

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 559, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.

Total 43

Nays: Cooney, Curtiss, Elliott, McGee, Roush, Wheat.

Total 6

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HJR 37, adopted as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 46

Nays: Bales, Esp, Zook.

Total 3

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on Senate Bill 461**

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Report No. 1, April 24, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 461** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 461** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 15.

Following: "BRACKETS;"

Insert: "PROVIDING RATE ADJUSTMENTS TO CLASS FOUR PROPERTY TAX RATES FOR CERTAIN RESIDENCES WITH EXTRAORDINARY INCREASES IN MARKET VALUE;"

Following: "FOUR"

Strike: "AND CLASS ELEVEN"

2. Title, page 1, line 18.

Strike: "ADJUSTS"

Insert: "ADJUST"

3. Title, page 1, line 23.

Strike: "AN IMMEDIATE"

Strike: "DATE AND A RETROACTIVE"

Insert: "DATES,"

4. Title, page 1, line 24.

Strike: "DATE"

Insert: "DATES, AND A TERMINATION DATE"

5. Page 9, line 28.

Insert: "NEW SECTION. Section 1. Extended property tax assistance -- phasein.(1) For the purpose of mitigating extraordinary market value increases during the revaluation cycle that ended December 31, 2002, the rate of taxation of class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in 15-6-134(2)(a) is adjusted in this section for properties with extraordinary increases in market value with owners that meet income requirements.

(2) An annual application on a form provided by the department is required to receive a tax rate adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted only for the current tax year and may not be granted for a previous year.

(3) A rate adjustment may not be granted for:

(a) any property that was sold or for which the ownership was changed after December 31, 2002, unless the change in ownership is between husband and wife or parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

(b) the value of new construction, including remodeling, on the property occurring after December 31, 2002, that is greater than 25% of the market value of the improvements; or

(c) a land use change occurring after December 31, 2002, that increases the market value of the land by more than 25%.

(4) For the purposes of determining the adjustment in the class four property tax rate in this section, the following provisions apply:

(a) The change in taxable value before reappraisal is the 2002 tax year value adjusted for any new construction or destruction that occurred in the 2002 tax year. The taxable value before reappraisal for the 2003 tax year and

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subsequent years is the same as the 2002 tax year value if no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes are made to the property during 2002 or subsequent tax years.

(b) The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal in 2003 times 0.69 times 0.0346. The taxable value after reappraisal is calculated by multiplying the 2003 market value after reappraisal times 0.66 times 0.0301.

(c) The dollar increase in tax liability is measured as the change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal in 2003 times 0.69 times 0.0346 times the tax year 2002 mill levy applied to the property. The tax liability after reappraisal is calculated by multiplying the 2003 market value after reappraisal times 0.66 times 0.0301 times the tax year 2002 mill levy applied to the property. The tax year 2002 mill levy is the total of all mills applied to the property for fiscal year 2003.

(d) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(e) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.

(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2003, the tax rate is 0.03598 times the value before reappraisal divided by the 2003 phase-in value.

(ii) For tax year 2004, the tax rate is 0.03759 times the value before reappraisal divided by the 2004 phase-in value.

(iii) For tax year 2005, the tax rate is 0.03932 times the value before reappraisal divided by the 2005 phase-in value.

(iv) For tax year 2006, the tax rate is 0.04109 times the value before reappraisal divided by the 2006 phase-in value.

(v) For tax year 2007, the tax rate is 0.04289 times the value before reappraisal divided by the 2007 phase-in value.

(vi) For tax year 2008 and after, the tax rate is 0.04485 times the value before reappraisal divided by the 2008 phase-in value.

(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2003, the tax rate is 0.03633 times the value before reappraisal divided by the 2003 phase-in value.

(ii) For tax year 2004, the tax rate is 0.03828 times the value before reappraisal divided by the 2004 phase-in value.

(iii) For tax year 2005, the tax rate is 0.04038 times the value before reappraisal divided by the 2005 phase-in value.

(iv) For tax year 2006, the tax rate is 0.04251 times the value before reappraisal divided by the 2006 phase-in value.

(v) For tax year 2007, the tax rate is 0.04467 times the value before reappraisal divided by the 2007 phase-in value.

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(vi) For tax year 2008 and after, the tax rate is 0.04702 times the value before reappraisal divided by the 2008 phase-in value.

(c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 36%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2003, the tax rate is 0.03668 times the value before reappraisal divided by the 2003 phase-in value.

(ii) For tax year 2004, the tax rate is 0.03898 times the value before reappraisal divided by the 2004 phase-in value.

(iii) For tax year 2005, the tax rate is 0.04143 times the value before reappraisal divided by the 2005 phase-in value.

(iv) For tax year 2006, the tax rate is 0.04392 times the value before reappraisal divided by the 2006 phase-in value.

(v) For tax year 2007, the tax rate is 0.04646 times the value before reappraisal divided by the 2007 phase-in value.

(vi) For tax year 2008 and after, the tax rate is 0.04919 times the value before reappraisal divided by the 2008 phase-in value.

(d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of 1%.

(6) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

(7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax rate adjustment is guilty of false swearing under 45-7-202.

(8) For the purposes of this section, "entity" means:

(a) a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

(b) an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person."

Insert: "NEW SECTION. Section 2. Extended property tax assistance -- phasein. (1) For the purpose of mitigating extraordinary market value increases during revaluation cycles that begin after December 31, 2008, the rate of taxation of class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in 15-6-134(2)(a) is adjusted in this section for properties with extraordinary increases in market value with owners that meet income requirements.

(2) An annual application on a form provided by the department is required to receive a tax rate adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted only for the current tax year and may not be granted for a previous year.

(3) A rate adjustment may not be granted for:

(a) any property that was sold or for which the ownership was changed after December 31 of the last year of the previous revaluation cycle, unless the change in ownership is between husband and wife or parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

(b) the value of new construction, including remodeling, on the property occurring after December 31 of the last year of the previous revaluation cycle that is greater than 25% of the market value of the improvements; or

(c) a land use change occurring after December 31 of the last year of the previous revaluation cycle that increases the market value of the land by more than 25%.

(4) For the purposes of determining the adjustment in the class four property tax rate in this section, the following provisions apply for revaluation cycles beginning after December 31, 2008:

(a) (i) The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal. The taxable value after reappraisal is calculated by multiplying the market value after reappraisal times

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the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal.

(ii) The tax rate before reappraisal is the tax rate that was in effect during the last year of the previous reappraisal cycle.

(iii) The tax rate after reappraisal is the tax rate that will be in effect during the last year of the current reappraisal cycle.

(iv) The homestead exemption before reappraisal is the homestead exemption that was in effect during the last year of the previous reappraisal cycle.

(v) The homestead exemption after reappraisal is the homestead exemption that will be in effect during the last year of the current reappraisal cycle.

(b) The dollar increase in tax liability is measured as the percentage change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal times the mill levy applied to the property before reappraisal. The tax liability after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal times the mill levy applied to the property before reappraisal. The mill levy applied to property before reappraisal is the total of all mills applied to the property in the last year of the previous reappraisal cycle.

(c) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(d) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.

(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 24% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 30% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate will be calculated such that the total increase in taxable value over the reappraisal cycle is 36% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of 1%.

(6) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

(7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax rate adjustment is guilty of false swearing under 45-7-202.

(8) For the purposes of this section, "entity" means:

(a) a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

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(b) an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person."

Renumber: subsequent sections

6. Page 36.

Following: line 21

Insert: "(7) The members of the committees created in this section must be appointed by July 1, 2003."

7. Page 36, line 23.

Strike: "5"

Insert: "7"

8. Page 36, line 29.

Strike: "5"

Insert: "7"

9. Page 37, line 9.

Insert: "NEW SECTION. Section 9. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [sections 1 and 2]."

Insert: "NEW SECTION. Section 10. Coordination instruction. If Senate Bill No. 126 and [this act] are both passed and approved, then the amendments contained in 15-6-201(1)(z) and (1)(aa) in [section 2 of Senate Bill No. 126] are void."

Insert: "NEW SECTION. Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Renumber: subsequent sections

10. Page 37, line 10.

Strike: "date"

Insert: "dates"

Following: "date."

Insert: "(1)"

Strike: "[This act]"

Insert: "Except as provided in subsections (2) and (3), [this act]"

11. Page 37.

Following: line 10

Insert: "(2) [Section 8] is effective July 1, 2003.

(3) [Section 2] is effective January 1, 2009."

12. Page 37, line 12.

Strike: "Retroactive applicability"

Insert: "Applicability"

Following: "applicability."

Insert: "(1)"

Strike: "[This act] applies"

Insert: "[Sections 1 and 3 through 5] apply"

13. Page 37, line 14.

Insert: "(2) [Section 2] applies to tax years beginning after December 31, 2008."

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Insert: "NEW SECTION. **Section 14. Termination.** [Section 1] terminates December 31, 2008."

For the Senate:

Story, Chairman
DePratu (unsigned)
Stonington

For the House:

Devlin, Chairman
Lake
Forrester

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 9:30 for purpose of party caucuses. Motion carried.

Senate recessed at 8:22 a.m.

Senate reconvened at 9:34 a.m.

Roll call. All members present except Senator Sprague, excused. Quorum present.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 558**
Report No. 1, April 24, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 558** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 558** (reference copy -- salmon) be amended as follows:

1. Page 2, line 15.

Strike: "\$16"

Insert: "\$15"

2. Page 3, line 1.

Strike: "\$1.50"

Insert: "50 cents"

3. Page 3, line 18.

Strike: "\$16"

Insert: "\$15"

4. Page 4, line 5.

Strike: "\$1.50"

Insert: "50 cents"

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For the House:

D. Brown, Chairman
Maedje
Keane

For the Senate:

Mahlum (unsigned), Chairman
Barkus
Shea

MESSAGES FROM THE GOVERNOR

April 24, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 247** sponsored by Senator Cobb and **Senate Bill 344** sponsored by Senator Laible on April 24, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

HB 42 - The House acceded to the request of the Senate and herewith transmits **HB 42** for reconsideration:
4/25/2003

MOTIONS

HB 42 - Senator Thomas moved consideration of **HB 42** be placed below HB 19 on the second reading board this day.
Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 473 - Governor's Amendments - Senator Elliott moved Governor's amendments to **SB 473** be concurred in.
Motion carried unanimously.

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HB 5 - Governor's Amendments - Senator Tester moved Governor's amendments to **HB 5** be concurred in. Motion carried unanimously.

HB 19 - Senator Esp moved **HB 19** be concurred in. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 24

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 19 - Senator Stapleton moved consideration of **HB 19** be passed for the day. Senator Ellingson made a **substitute motion** that **HB 19** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 13 - Senator F. Thomas moved consideration of **HB 13** be placed at the top of the second reading board. Motion carried.

*****HB 13 - Free Conference Committee Report No. 1** - Senator Zook moved the Free Conference Committee report to **HB 13** be **not** adopted. Motion carried unanimously.

HB 42 - Senator Bales moved **HB 42**, second reading copy, be amended as follows:

1. Title, line 9.

Following: "APPROPRIATION"

Insert: "AND A STATUTORY APPROPRIATION"

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2. Title, line 10.

Strike: "FOR RESIDENTS"

3. Title, line 11.

Following: "~~17-7-502~~,"

Insert: "17-7-502,"

Following: "~~87-1-268~~,"

Insert: "87-1-268,"

4. Title, line 12.

Following: "~~87-2-512~~,"

Insert: "87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512,"

5. Page 3, line 4.

Following: "~~17-7-502~~,"

Insert: "That portion of the money in the fund that the department determines is necessary for the purpose of implementing [sections 1 through 5] is statutorily appropriated, as provided in 17-7-502."

6. Page 4.

Following: line 12

Insert: "**Section 6.** Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

Renumber: subsequent sections

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7. Page 7.

Following: line 13

Insert: "Section 8. Section 87-1-268, MCA, is amended to read:

"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. The Subject to the management provisions provided in [sections 1 through 5], the fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"

Renumber: subsequent sections

8. Page 11, line 9.

Following: "~~Class B-11,~~"

Insert: "Class B-10, Class B-11,"

9. Page 20.

Following: line 17

Insert: "Section 12. Section 87-2-504, MCA, is amended to read:

"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Not Subject to the management provisions provided in [sections 1 through 5], not more than 5,000 Class B-7 licenses may be sold in any license year.

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized

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by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d).

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions.""

Insert: "Section 13. Section 87-2-505, MCA, is amended to read:

"87-2-505. (Temporary) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not Subject to the management provisions provided in [sections 1 through 5], not more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not Subject to the management provisions provided in [sections 1 through 5], not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission.""

Insert: "Section 14. Section 87-2-510, MCA, is amended to read:

"87-2-510. (Temporary) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) Not Subject to the management provisions provided in [sections 1 through 5], not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer

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combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) ~~Six thousand~~ Subject to the management provisions provided in [sections 1 through 5], 6,000 Class B-11 licenses are authorized for sale each license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

Insert: "Section 15. Section 87-2-511, MCA, is amended to read:

"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses. (1) ~~The~~ Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

- (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
- (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and
- (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

- (a) accompany the applicant;
- (b) provide guiding services for the species hunted by the applicant;

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(c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;

(d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and

(e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.

(7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

(8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.

(9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses. (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

(a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;

(b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and

(c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

(a) accompany the applicant;

(b) provide guiding services for the species hunted by the applicant;

(c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;

(d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and

(e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

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(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.

(7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for the respective unreserved licenses.""

Insert: "Section 16. Section 87-2-512, MCA, is amended to read:

"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue. (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management:

(a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504;

(b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses;

(c) shall set the fees for the separated licenses as follows:

(i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and

(ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268;

(d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts;

(e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511;

(f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, ~~except that~~ Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and

(g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer.

(2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag.""

Renumber: subsequent sections

Amendment **adopted** unanimously.

HB 42 - Senator Bales moved **HB 42**, as amended, be concurred in. Motion carried Cooney, Harrington, Mangan and Mahlum voting nay.

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HB 218 - Governor's Amendments - Senator Gebhardt moved Governor's amendments to **HB 218** be concurred in. Motion carried unanimously.

HB 609 - Governor's Amendments - Senator Pease moved Governor's amendments to **HB 609** be concurred in. Motion carried unanimously.

HB 693 - Governor's Amendments - Senator Harrington moved Governor's amendments to **HB 693** be concurred in. Motion carried unanimously.

HB 775 - Senator Glaser moved **HB 775** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 42 - Senator Thomas moved Senate Rule 51-70 be suspended in order to place **HB 42** on third reading this day. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Harrington, Mangan.
Total 2

Absent or not voting: None.
Total 0

Excused: Perry, Ryan, Sprague, Taylor, Toole.
Total 5

SB 415 - Senator Thomas moved to suspend the rules to allow the late return of **SB 415 with House Amendments**, and that it be placed on second reading this day. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 46

Nays: Schmidt, Tropila.
Total 2

Absent or not voting: None.
Total 0

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Excused: Ryan, Sprague.
Total 2

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 42, as amended, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Wheat, Zook, Mr. President.
Total 42

Nays: Cooney, Harrington, Mahlum, Mangan, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: Ryan, Sprague, Tropila.
Total 3

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman):

4/24/2003

HJR 44, be amended as follows:

1. Title, page 1, line 6.
Strike: "OR TO DIRECT SUFFICIENT STAFF RESOURCES"

2. Page 1, line 23.
Following: "MCA,"
Strike: "or" through "resources"

3. Page 2, line 10.
Following: "firm"
Insert: "may"

4. Page 2, line 11.
Following: "study"
Insert: "if funding is available"

5. Page 2, lines 14 and 15.
Following: line 13
Strike: lines 14 and 15 in their entirety

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6. Page 2, lines 16 and 17.

Following: "study"

Strike: remainder of line 16 through "requirements," on line 17

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

April 25, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Re: SB 484

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 484, **"AN ACT AUTHORIZING MUNICIPALITIES, CONSOLIDATED LOCAL GOVERNMENTS, AND COUNTIES TO CREATE EMPOWERMENT ZONES TO ENCOURAGE THE CREATION OF JOBS WITHIN THE ZONES; AND ALLOWING A TAX CREDIT AGAINST INDIVIDUAL INCOME TAXES, CORPORATION INCOME OR LICENSE TAXES, OR INSURANCE PREMIUM TAXES FOR QUALIFYING 3-YEAR JOBS CREATED IN AN EMPOWERMENT ZONE"**, without my signature and recommend the attached amendments.

I have no concerns with the objectives of Senate Bill No. 484 but the legislation in its current form could lead to inconsistent criteria being used to establish empowerment zones around the state. Without several changes the law would also potentially allow empowerment zones to be established, with resulting tax credits applied, that would not be within the spirit of this legislation, which is to assist economically disadvantaged areas. Accordingly, I recommend that:

In Section 3, an additional subsection (4) be inserted, that reads each governing body may create a maximum of one empowerment zone, either wholly or partially within its limits, in any seven year period. This amendment will require each governing body to carefully consider where best to establish an empowerment zone and will also help ensure we only establish empowerment zones for our most needy areas.

In Section 4 (3) additional language be inserted to restrict empowerment zones to area that have a population of at least 1,000 people. Without a minimum population requirement, empowerment zones could be established in areas where they are used more for tax avoidance than for helping our disadvantaged citizens. It is also extremely difficult to find meaningful economic data in an area with very few people. As currently written, for example, it could be possible to establish an empowerment zone in an area with two resident citizens, one of whom is unemployed, in an otherwise prosperous area.

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Further, I recommend that an additional subsection (4) be included in Section 4 that requires a governing body to gather the necessary data for an area where the state or federal government does not have the required data. For example, the state generally maintains county-level data for unemployment. Should a governing body wish to create an empowerment zone in an area other than a whole county or Metropolitan Statistical Area (MSA) the governing body should be responsible for collecting the necessary information to qualify that area as an empowerment zone.

Finally, I recommend that a new Section 9 be inserted to authorize the Department to adopt rules in the implementation of this act. Many of the terms and criteria that are used in this legislation to define and qualify an empowerment zone could be interpreted in multiple ways. Rule making authority is necessary to ensure consistent application of the law and to ensure clear criteria are available to each governing body.

I have enclosed amendments to address each of these issues. Please be advised that the Department of Labor and Industry concurs with my amendments. Further, please be advised that Senator Mangan, the sponsor of the bill, also concurs.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 484

1. Title, line 6.

Strike: "AND"

2. Title, line 8.

Following: "ZONE"

Insert: "; AND AUTHORIZING THE DEPARTMENT TO ADOPT RULES"

3. Page 2, line 12.

Insert: "(4) Each governing body may create a maximum of one empowerment zone, either wholly or partially within its limits, in any 7-year period."

4. Page 2, line 21.

Following: "identity and"

Insert: "the empowerment zone must include an area in which there is an annual average population of at least 1,000 residents. Boundaries"

Strike: "use"

Insert: "be based on"

5. Page 2, line 24.

Insert: "(4) The governing body has the burden of establishing that the proposed empowerment zone meets the requirements of this section."

6. Page 7, line 10.

Insert: "NEW SECTION. Section 9.Rulemaking authority. The department may adopt rules to implement [sections 1 through 5].

"

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Renumber: subsequent section

7. Page 7, line 11.

Following: "5"

Insert: "and 9"

8. Page 7, line 13.

Following: "5"

Insert: "and 9"

MESSAGES FROM THE OTHER HOUSE

HB 247 - The House failed to concur in Senate amendments to **HB 247**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 247**:

4/25/2003

Representative Noennig, Chair

Representative Lange

Representative Harris

MOTIONS

HB 247 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 247**. Motion carried. The President appointed the following members:

Senator Grimes, Chair

Senator McGee

Senator Mangan

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Thomas moved the Senate stand in recess until the hour of 1:30 p.m. this day. Motion carried.

Senate recessed at 11:16 a.m.

Senate reconvened at 1:36 p.m.

Roll call. All members present except Senator Sprague, excused. Quorum present.

MESSAGES FROM THE OTHER HOUSE

SB 46 - The House, on motion duly carried, overrode the **Governor's veto** on **SB 46** and returned the bill to the Senate.

4/25/2003

Senate amendments to House bills **concurred in:**

4/25/2003

HB 11, introduced by Kasten

HB 206, introduced by Younkin

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HB 489, introduced by Lehman
HB 608, introduced by Windy Boy
HB 736, introduced by R. Brown

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 461 - Free Conference Committee Report No. 1 - Senator Story moved the Free Conference Committee report to **SB 461** be adopted. Motion carried unanimously.

HJR 35 - Senator Curtiss moved **HJR 35** be concurred in. Motion carried unanimously.

HJR 40 - Senator McGee moved **HJR 40** be concurred in. Motion carried unanimously.

HJR 38 - Senator Elliott moved **HJR 38** be concurred in. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HJR 38 - Senator Stapleton moved **HJR 38** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.

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Total 0

Excused: Sprague.

Total 1

HJR 43 - Senator Kitzenberg moved **HJR 43** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 39

Nays: Black, Butcher, Esp, Glaser, McNutt, Story, Tash, Mr. President.

Total 8

Absent or not voting: Bales, McGee.

Total 2

Excused: Sprague.

Total 1

HB 558 - Conference Committee Report No. 1 - Senator Mahlum moved the Conference Committee report to **HB 558** be adopted. Motion carried with Senators Mangan, Ryan, Squires and Taylor voting nay.

HJR 44 - Senator Cocchiarella moved **HJR 44** be concurred in. Motion **failed** as follows:

Yeas: Anderson, Barkus, Bohlinger, Cobb, Cocchiarella, Cromley, DePratu, Ellingson, Elliott, Grimes, Harrington, Kitzenberg, Nelson, Pease, Roush, Squires, Stapleton, Stonington, Story, Tester, Tropila, Wheat.

Total 22

Nays: Bales, Black, Butcher, Cooney, Curtiss, Esp, Gebhardt, Glaser, Hansen, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Ryan, Schmidt, Shea, Tash, Taylor, Thomas, Toole, Zook, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HJR 44 - Senator F. Thomas moved **HJR 44** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Butcher, Cooney, Curtiss, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Story, Tash, Taylor, Thomas, Toole, Zook, Mr. President.

Total 31

Nays: Black, Bohlinger, Cobb, Cocchiarella, Cromley, DePratu, Ellingson, Elliott, Harrington, Kitzenberg, Mahlum,

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Roush, Squires, Stapleton, Stonington, Tester, Tropila, Wheat.
Total 18

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 247**
Report No. 1, April 25, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 247** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 247** (reference copy -- salmon) be amended as follows:

1. Title, line 5.

Following: "VAGRANCY;"

Insert: "CLARIFYING THAT VAGRANCY DOES NOT INCLUDE AGGRESSIVE SOLICITATION THAT IS INCLUDED IN THE OFFENSE OF DISORDERLY CONDUCT;"

2. Page 2, line 15.

Following: "(14)"

Insert: "subject to 7-32-4304,"

3. Page 3, line 14.

Following: "conduct"

Insert: "and aggressive solicitation, as defined by ordinance, that is included in the offense of disorderly conduct"

For the House:

Noennig, Chairman
Harris
Lange

For the Senate:

Grimes, Chairman
McGee (unsigned)
Mangan

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MESSAGES FROM THE GOVERNOR

April 25, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

RE: House Bill No. 42

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 42, **"AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CALCULATE THE AMOUNT OF HABITAT AVAILABLE FOR ELK, DEER, AND ANTELOPE IN MONTANA; REQUIRING A DETERMINATION OF SUSTAINABLE POPULATIONS BASED ON THE HABITAT CALCULATION; REQUIRING THE DEPARTMENT TO ENSURE THAT POPULATIONS OF ELK, DEER, AND ANTELOPE ARE AT OR BELOW THE POPULATION ESTIMATE; PROVIDING A FUNDING SOURCE AND A STATUTORY APPROPRIATION; PROVIDING FOR ADJUSTMENTS BASED ON MANAGEMENT PROVISIONS IN THE MAXIMUM LICENSE NUMBERS THAT CAN BE ALLOCATED; AMENDING SECTIONS 17-7-502, 87-1-201, 87-1-268, 87-1-301, 87-2-104, 87-2-501, 87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512, AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE,"** without my signature and recommend the attached amendments for the following reason:

I have no concerns with general objectives of House Bill No. 42. However, I recommend that the following amendments that were removed from House Bill No. 42 are paramount to achieving the overall objectives of the bill, with the ultimate goal of making the provisions of the bill workable.

I have enclosed my amendments to that effect. Representative Barrett has been informed of my recommendation. Please be advised that the Department of Fish, Wildlife and Parks concur with my amendments.

Sincerely,

JUDY MARTZ
Governor

**GOVERNOR'S AMENDMENTS
TO HOUSE BILL 42**

1. Title, line 9.

Strike: "ENSURE"

Insert: "MANAGE WITH THE OBJECTIVE"

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2. Title, line 10.

Strike: "AND A STATUTORY APPROPRIATION"

3. Title, line 11.

Following: "FOR RESIDENTS"

Insert: "FOR RESIDENTS"

Strike: "17-7-502,"

Strike: "87-1-268,"

4. Title, lines 12 and 13.

Following: "87-2-512," on line 12

Strike: remainder of line 12 through "87-2-512," on line 13

5. Page 2, line 18.

Strike: "to ensure"

Insert: "with the objective"

6. Page 2, line 27.

Strike: "ensure"

Insert: "manage with the objective"

7. Page 3, lines 5 through 7.

Following: "~~17-7-502:~~" on line 5

Strike: remainder of line 5 through line 7 in its entirety

8. Page 4, line 17 through page 5, line 15.

Strike: section 6 in its entirety

Renumber: subsequent sections

9. Page 8, lines 18 through 28.

Strike: section 8 in its entirety

Renumber: subsequent sections

10. Page 22, line 4 through page 30, line 3.

Strike: sections 12 through 16 in their entirety

Renumber: subsequent sections

April 25, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

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Re: HB 744

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return House Bill No. 744, "AN ACT DIRECTING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO SEEK FEDERAL FUNDS TO OFFSET GENERAL FUND EXPENDITURES TO THE MAXIMUM EXTENT POSSIBLE; DIRECTING THE DEPARTMENT TO EVALUATE THE PROPOSED MEDICAID BLOCK GRANT AS PART OF REFINANCING ACTIVITIES AND REPORT FINDINGS AT EACH REGULAR MEETING OF THE LEGISLATIVE FINANCE COMMITTEE; DIRECTING THAT THE GOVERNOR MAY NOT OPT TO ACCEPT A MEDICAID BLOCK GRANT WITHOUT LEGISLATIVE CONSENT IF THE DECISION TO ACCEPT THE GRANT CAN BE DELAYED UNTIL THE NEXT REGULAR SESSION OF THE LEGISLATURE; PROVIDING FOR THE USE OF FUNDING OBTAINED PURSUANT TO THE DIRECTIVE; AUTHORIZING THE DEPARTMENT TO REINSTATE SERVICES IF AUTHORIZED BY THE OFFICE OF BUDGET AND PROGRAM PLANNING; AMENDING SECTIONS 17-2-108 AND 53-6-101, MCA; AND PROVIDING AN EFFECTIVE DATE," without my signature and recommend the attached amendment for the following reason.

House Bill No. 744, Section 2 (4) violates the Doctrine of Separation of Powers. I have no concerns with the objectives of House Bill No. 744, or with its specific measures. Specifically, in regard to the evaluation of proposed Medicaid block grant and the acceptance of said grant, I will consider the recommendation of the legislative finance committee and will provide written rationale if the committee's recommendation is not followed. My objections in this case are based solely on my desire to respect the integrity of our multi-branch form of government and to maintain the clear lines of authority drawn between our respective branches.

Article III, Section 1 of the Montana Constitution provides:

The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

It has been said that the principle of the separation of powers is fundamental to the existence of constitutional government. *National Mut. Ins. Co. v. Tidewater Transfer Co.*, 337 U.S. 582, 590 (1949).

I recommend that Section 2 (4) be deleted in its entirety--in its current form, this subsection violates the Doctrine of Separation of Powers.

I have enclosed my amendment to that effect. Please be advised that the Department of Public Health and Human Services concur with my amendment. Further, Representative Clark, the sponsor of the bill, has been informed of my recommendation and concurs.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 744

1. Title, lines 10 through 12.
Following: "COMMITTEE;" on line 10

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Strike: remainder of line 10 through "LEGISLATURE;" on line 12

2. Page 2, lines 16 through 18.

Strike: subsection (4) in its entirety

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 3:30 p.m. this day, or upon call of the chair. Motion carried.

Senate recessed at 3:00 p.m.

Senate reconvened at 4:32 p.m.

Roll call. All members present except Senators Perry and Sprague, excused. Quorum present.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 363**
Report No. 1, April 25, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 363** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 363** (reference copy -- salmon) be amended as follows:

1. Title, lines 9 and 10.

Following: "MONEY" on line 9

Strike: remainder of line 9 through "AMOUNT" on line 10

2. Title, lines 11 and 12.

Strike: line 11 through "1990;" on line 12

3. Page 2, line 27.

Strike: ":",

Insert: ":",

4. Page 2, line 28.

Strike: "(I)"

5. Page 2, line 29 through page 3, line 1.

Following: "FUND" on line 29

Strike: remainder of line 29 through "1990" on line 1

6. Page 3, line 8.

Strike: "EXCEPT" through "IF"

Insert: "If"

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7. Page 3, line 22.

Following: "remainder"

Insert: "as follows:

- (1) \$3,522,295 to the state general fund; and
- (2) the remainder"

8. Page 3, lines 23 and 24.

Following: "FUND." on line 23

Strike: remainder of line 23 through "39-71-2352(5)(C)(II)." on line 24

For the House:

R. Brown, Chairman
Sales
Gillan

For the Senate:

Barkus, Chairman
Thomas
Cocchiarella

MESSAGES FROM THE GOVERNOR

April 25, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 348** sponsored by Senator Keenan, **Senate Bill 387** sponsored by Senator Cobb, **Senate Bill 402** sponsored by Senator Cocchiarella et al., **Senate Bill 434** sponsored by Senator Tropila, and **Senate Bill 454** sponsored by Senator Story on April 25, 2003.

Sincerely,

JUDY MARTZ
Governor

April 25, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 95** sponsored by Senator Stonington, **Senate Bill 155** sponsored by Senator Taylor, **Senate Bill 231** sponsored by Senator Cromley, **Senate Bill 244** sponsored by Senator Story et al., **Senate Bill 246** sponsored by Senator Glaser, **Senate Bill 275** sponsored by Senator Laible et al., **Senate Bill 294** sponsored by Senator Gebhardt et al., **Senate Bill 386** sponsored by Senator Gebhardt et al., and **Senate Bill 480**

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sponsored by Senator Black on April 25, 2003.

Sincerely,

JUDY MARTZ
Governor

April 25, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Re: HB 452

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 452, "**AN ACT PROVIDING A TAX CREDIT FOR CONTRIBUTIONS TO AN ACCOUNT TO BE USED FOR PROVIDING SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES; PROVIDING FOR THE USE OF MONEY IN THE ACCOUNT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE,**" without my signature and recommend the attached amendment for the following reasons:

I have no concerns with the objectives of House Bill No. 452. As the bill stands, however, there is a mismatch of years for reconciling general fund receipts and credit offsets. This amendment rectifies this mismatch by clarifying reconciliation, for credits taken, does not begin until calendar year 2004. The calendar year 2004 is the first year that credits will be taken for contributions made in 2003. This amendment ensures that there is no negative general fund impact for any year.

I have enclosed my amendment to that effect. Please be advised that the Department of Revenue concur with my amendments. Further, Representative Raser, the sponsor of the bill, has been informed of my recommendation and concurs.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 452

1. Page 1, line 22.

Strike: "AT THE END OF EACH"

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Insert: "In"

Strike: "YEAR"

Insert: "years 2004, 2005, and 2006"

2. Page 1, line 23.

Following: "CLAIMED"

Insert: ", "

3. Page 1, line 24.

Following: "TAKEN"

Insert: "for donations made"

MESSAGES FROM THE OTHER HOUSE

HB 701 - The House, on motion duly carried, overrode the Governor's veto on **HB 701** and requested the Senate to do likewise.

4/25/2003

Free Conference Committee Report No.1 adopted:

4/25/2003

SB 271, introduced by Stapleton

SB 362, introduced by Grimes

SB 487, introduced by Pease

HB 559, introduced by Gallus

Conference Committee Report No.1 adopted:

4/25/2003

SB 336, introduced by Mahlum

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 3

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 363 - Conference Committee Report No. 1 - Senator Barkus moved the Conference Committee report to **HB 363** be adopted. Motion carried unanimously.

SB 415 - House Amendments - Senator F. Thomas moved House amendments to **SB 415** be concurred in. Motion carried with Senators Butcher and McGee voting nay.

HB 247 - Free Conference Committee Report No. 1 - Senator Mangan moved the Free Conference Committee report to **HB 247** be adopted. Motion carried as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington,

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Johnson, Laible, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 31

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Glaser, Kitzenberg, McGee, McNutt, Perry, Taylor, Mr. President.

Total 15

Absent or not voting: Cobb.

Total 1

Excused: Sprague, Stapleton, Stonington.

Total 3

SB 484 - Governor's Amendments - Senator Mangan moved Governor's amendments to **SB 484** be concurred in. Motion carried unanimously.

HB 42 - Governor's Amendments - Senator Bales moved Governor's amendments to **HB 42** be concurred in. Motion carried unanimously.

HB 744 - Governor's Amendments - Senator Stonington moved Governor's amendments to **HB 744** be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 5:45 p.m. this day. Motion carried.

Senate recessed at 5:13 p.m.

Senate reconvened at 5:42 p.m.

Roll call. All members present except Senators Harrington and Sprague, excused. Quorum present.

MOTIONS

Senator Thomas moved Senate rule 50-170 be suspended to allow bills from second reading this day to be placed on third reading this day. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

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Absent or not voting: None.
Total 0

Excused: Harrington, Sprague.
Total 2

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 4

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Harrington present at this time.

*****SB 485 - House Amendments** - Senator Cobb moved House amendments to **SB 485** be **not** concurred in. Motion carried unanimously.

HB 107 - Conference Committee Report No. 1 - Senator Glaser moved the Conference Committee report to **HB 107** be adopted. Senator Thomas made a **substitute motion** that **HB 107** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Black, Bohlinger, Glaser, Mangan.
Total 4

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

HB 701 - Senator Wheat moved the Senate override the Governor's veto of **HB 701**. Motion **failed** to receive the necessary two-thirds vote as follows:

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Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 26

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 23

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 485 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee on **SB 485**, and request the House to appoint a like committee to confer on **SB 485**. Motion carried. The President appointed the following members:

Senator Cobb, Chair

Senator Stapleton

Senator Stonington

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:30 a.m., Saturday, April 26, 2003. Motion carried.

Senate adjourned at 6:48 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 26, 2003

Senate Chambers
State Capitol

Senate convened at 8:30 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Sprague, excused. Quorum present.

The presiding officer has authenticated the daily journal for the eighty-eighth legislative day.

REPORTS OF STANDING COMMITTEES

Correctly enrolled: **SB 101, SB 126, SB 304, SB 325, SB 375, SB 408, SB 429, SB 492, SJR 29, SJR 32, SR 11.**

Examined by the sponsor and found to be correct: **SB 414, SB 489.**

Signed by the President at 5:00 a.m., April 24, 2003: **SB 414, SB 489.**

Signed by the Secretary of the Senate at 7:15 p.m., April 24, 2003: **SB 414, SB 489.**

Signed by the Speaker at 8:15 a.m., April 25, 2003: **SB 414, SB 489.**

Delivered to the Governor for approval at 10:10 a.m., April 26, 2003: **SB 414, SB 489.**

MESSAGES FROM THE OTHER HOUSE

SB 485 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 485**:

4/26/2003

Representative Brueggeman, Chair
Representative E. Clark
Representative Franklin

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 415, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Curtiss, Esp, Grimes.

Total 3

Absent or not voting: None.

Total 0

Excused: Sprague.

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Total 1

SB 461, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 473, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 484, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Esp, McGee, O'Neil.

Total 3

Absent or not voting: None.

Total 0

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Excused: Sprague.
Total 1

HB 5, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 42, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 42

Nays: Cooney, Cromley, Ellingson, Harrington, McCarthy, Toole, Wheat.
Total 7

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 218, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: Sprague.

Total 1

HB 247, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 37

Nays: Bales, Barkus, Butcher, Curtiss, DePratu, Esp, McGee, McNutt, Perry, Stapleton, Story, Zook.

Total 12

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 363, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Cooney.

Total 1

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 558, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Toole, Wheat, Zook.

Total 42

Nays: Mahlum, Mangan, McGee, Ryan, Thomas, Tropila, Mr. President.

Total 7

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Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 609, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 693, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 744, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 775 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HJR 35 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HJR 40 concurred in as follows:

Yeas: Barkus, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

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Nays: Anderson, Bales, Black, Esp, Gebhardt.
Total 5

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HJR 43 concurred in as follows:

Yeas: Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.
Total 35

Nays: Anderson, Bales, Black, Butcher, Curtiss, Esp, Glaser, Johnson, McNutt, O'Neil, Perry, Story, Tash, Zook.
Total 14

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

SPECIAL ORDERS OF THE DAY

Senator Grimes paid tribute to Steve Melee and his camera crew of 10, who have monitored the entire session with video cameras so the people of the State of Montana can keep abreast of daily happenings at the Capitol.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Senator Thomas moved the Senate stand in recess until the hour of 12 noon this day. Motion carried.

Senate recessed at 9:05 a.m.
Senate reconvened at 12 noon.

Roll call. All members present except Senators Butcher, DePratu, Glaser, Grimes, Keenan, Mahlum, Nelson, Schmidt, Sprague, Stonington, Tash and Zook, excused. Quorum present.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **Senate Bill 424**
Report No. 1, April 26, 2003

Mr. President and Mr. Speaker:

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We, your Free Conference Committee met and considered **Senate Bill 424** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 424** (reference copy -- salmon) be amended as follows:

1. Title, line 6.

Following: "ENTITLEMENTS;"

Insert: "INCREASING THE BASIC AND PER-ANB ENTITLEMENTS FOR PUBLIC SCHOOLS FOR SCHOOL FISCAL YEAR 2004 AND SUCCEEDING YEARS;"

2. Title, line 7.

Following: "ANB";"

Insert: "CHANGING THE WAY IN WHICH A SCHOOL DISTRICT OR COOPERATIVE CHARGES EMPLOYER CONTRIBUTIONS FOR RETIREMENT, SOCIAL SECURITY, AND UNEMPLOYMENT INSURANCE; TERMINATING THE COUNTYWIDE SCHOOL RETIREMENT BLOCK GRANTS;"

3. Title, line 12.

Following: "SECTIONS"

Insert: "20-9-306,"

4. Title, line 13.

Following: "~~20-10-141~~,"

Insert: "20-9-501, 20-9-542,"

Strike: "SECTION 25"

Insert: "SECTIONS 25 AND 26"

5. Title, line 14.

Following: "DATES"

Insert: ", "

6. Title, line 15.

Strike: "AND"

Following: "DATES"

Insert: ", AND A TERMINATION DATE"

7. Page 1, line 20.

Following: "(1)"

Strike: "THE"

Insert: "In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the"

8. Page 1, lines 21 and 22.

Following: the first "FOR"

Insert: "the basic and per-ANB entitlements in"

Strike: the first "SCHOOL"

Strike: "BY" on line 21 through "FISCAL YEAR" on line 22

Insert: "of the ensuing biennium. The inflation factor is calculated as follows:"

(a) for the first year of the biennium, divide the consumer price index for July 1 of the prior calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the prior calendar year and raise the resulting ratio

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to the power of one-third; and

(b) for the second year of the biennium, divide the consumer price index for July 1 of the current calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the current calendar year and raise the resulting ratio to the power of one-third

9. Page 1, line 23.

Strike: "K-12 PUBLIC EDUCATION"

Insert: "the basic and per-ANB entitlements"

10. Page 1, line 25.

Following: "SECTION"

Insert: ", not to exceed 3% in each year, applied to both years of the biennium"

11. Page 1.

Following: line 28

Insert: "**Section 2.** Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; and

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and ~~up to~~ 40% of the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) ~~\$213,819~~ \$216,171 for each high school district;

(b) ~~\$19,244~~ \$19,456 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows:

(i) ~~\$19,244~~ \$19,456 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) ~~\$213,819~~ \$216,171 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(8) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the

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district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(9) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(10) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,205~~ \$5,262 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~\$3,906~~ \$3,949 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of ~~\$3,906~~ \$3,949 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,205~~ \$5,262 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB."

Insert: "Section 3. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; and

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and ~~up to~~ 40% of the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) ~~\$213,819~~ \$220,646 for each high school district;

(b) ~~\$19,244~~ \$19,859 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows:

(i) ~~\$19,244~~ \$19,859 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) ~~\$213,819~~ \$220,646 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the

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general fund budget of a district and funded with state and county equalization aid.

(8) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(9) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(10) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,205~~ \$5,371 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~\$3,906~~ \$4,031 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of ~~\$3,906~~ \$4,031 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,205~~ \$5,371 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB."

Renumber: subsequent sections

12. Page 7.

Following: line 4

Insert: "Section 7. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement costs and retirement fund. (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for the following:

(i) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from state or local funding sources;

(ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the cooperative's interlocal agreement fund if the fund is supported solely from districts' general funds and state special education allowable cost payments pursuant to 20-9-321; and

(iii) a district employee whose salary and health-related benefits, if any health-related benefits are provided to

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the employee, are paid from the district's school food services fund provided for in 20-10-204.

(b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the funding source that pays the employee's salary.

~~(2)~~(3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

~~(3)~~(4) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year;

(ii) oil and natural gas production taxes;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) countywide school retirement block grants distributed under section 245, Chapter 574, Laws of 2001;

(v) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

(vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection ~~(8)~~ (9), subtracting the money available for reduction of the levy requirement, as determined in subsection ~~(3)~~(a) (4)(a), from the budgeted amount for expenditures in the final retirement fund budget.

~~(4)~~(5) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the fourth Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

~~(5)~~(6) The county commissioners shall fix and set the county levy or district levy in accordance with 20-9-142.

~~(6)~~(7) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

~~(7)~~(8) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

~~(8)~~(9) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection ~~(4)~~(a) (5)(a) by the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000.

~~(9)~~(10) The levy for a community college district may be applied only to property within the district."

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Insert: "Section 8. Section 20-9-542, MCA, is amended to read:

"20-9-542. School flexibility account -- distribution of funds. (1) There is a school flexibility account in the state special revenue fund. The superintendent of public instruction shall allocate the money in the account, including any interest earned on money allocated to the account, to each school district. Each school district's total allocation is the sum of the district K-12 public school funding amount, the district large K-12 public school funding amount, and the district student funding amount.

(2) In addition to funds allocated or appropriated to the school flexibility account, all money saved by the state if the actual statewide ANB in a given fiscal year is less than the statewide ANB projected by the legislature during the preceding legislative session must be deposited in the school flexibility account.

(3) A portion of the money in the school flexibility account may be expended by a district to alleviate certified staff shortages in the district or for retirement incentives only if a portion of the account is specified for that purpose in a general appropriation act."

13. Page 11.

Following: line 10

Insert: Section 12. Section 26, Chapter 13, Special Laws of August 2002, is amended to read:

"Section 26. Section 245, Chapter 574, Laws of 2001, is amended to read:

"Section 245. Countywide school retirement block grants. (†) The office of public instruction shall distribute one-half of the amount appropriated for countywide school retirement in November and the remainder in May. The total amount for each county is as follows:

	FY 2002	FY 2002	FY 2003	FY 2003
	Elementary	High School	Elementary	High School
	Payment	Payment	Payment	Payment
Beaverhead	\$86,692	\$50,789	\$87,351 <u>\$55,503</u>	\$51,175 <u>\$41,981</u>
Big Horn	62,668	36,963	63,144 <u>95,018</u>	37,244 <u>33,837</u>
Blaine	61,160	10,193	61,624 <u>46,318</u>	10,271 <u>81,109</u>
Broadwater	0	92,686	0	93,390 <u>34,949</u>
Carbon	43,451	82,110	43,782 <u>72,602</u>	82,734 <u>58,957</u>
Carter	9,751	5,453	9,825 <u>8,478</u>	5,495 <u>6,155</u>
Cascade	349,056	192,848	351,709 <u>282,266</u>	194,314 <u>142,282</u>
Chouteau	75,384	41,034	75,957 <u>58,455</u>	41,346 <u>29,474</u>
Custer	78,925	36,930	79,525 <u>57,608</u>	37,211 <u>32,128</u>
Daniels	0	37,994	0	38,283 <u>36,083</u>
Dawson	85,568	38,722	86,219 <u>64,693</u>	39,016 <u>24,827</u>
Deer Lodge	39,980	17,059	40,284 <u>34,455</u>	17,189 <u>16,807</u>
Fallon	0	0	0	0 <u>30,444</u>
Fergus	119,028	78,809	119,932 <u>90,464</u>	79,408 <u>55,527</u>
Flathead	558,861	296,410	563,108 <u>530,274</u>	298,662 <u>268,731</u>
Gallatin	383,035	181,743	385,946 <u>537,244</u>	183,125 <u>107,717</u>
Garfield	12,337	10,170	12,431 <u>12,100</u>	10,247 <u>4,620</u>
Glacier	79,924	34,016	80,532 <u>106,815</u>	34,275 <u>10,494</u>
Golden Valley	0	16,716	0	16,843 <u>14,492</u>
Granite	14,074	48,026	14,180 <u>12,523</u>	48,391 <u>30,727</u>
Hill	142,867	82,538	143,953 <u>59,593</u>	83,165 <u>35,211</u>
Jefferson	116,679	59,523	117,565 <u>143,901</u>	59,976 <u>59,690</u>
Judith Basin	6,149	21,359	6,196 <u>4,744</u>	21,521 <u>30,198</u>
Lake	173,584	139,990	174,903 <u>156,485</u>	141,054 <u>103,365</u>
Lewis & Clark	344,112	211,726	346,728 <u>370,958</u>	213,335 <u>173,847</u>

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Liberty	20,144	16,786	20,297 <u>3,067</u>	16,914 <u>31,953</u>	
Lincoln	73,001	98,835	73,556 <u>61,499</u>	99,586 <u>87,710</u>	
Madison	0	103,163	0 <u>4,891</u>	103,947 <u>19,788</u>	
McCone	23,214	15,824	23,390 <u>21,778</u>	15,945 <u>14,004</u>	
Meagher	13,654	10,678	13,758 <u>9,250</u>	10,759 <u>9,492</u>	
Mineral	0	32,206	0 <u>32,451</u>	33,292	
Missoula	487,129	362,756	490,832 <u>587,637</u>	365,513 <u>357,669</u>	
Musselshell	30,675	21,577	30,908 <u>48,959</u>	21,741 <u>41,250</u>	
Park	154,192	81,696	155,364 <u>135,256</u>	82,317 <u>78,135</u>	
Petroleum	0	16,897	0	17,026 <u>9,510</u>	
Phillips	10,502	95,084	10,582 <u>103,747</u>	95,806 <u>54,728</u>	
Pondera	79,805	60,307	80,411 <u>18,821</u>	60,765 <u>47,629</u>	
Powder River	18,815	15,011	18,958 <u>0</u>	15,125 <u>0</u>	
Powell	69,695	22,666	70,225 <u>71,420</u>	22,838 <u>30,458</u>	
Prairie	0	26,791	0 <u>26,995</u>	21,945	
Ravalli	85,333	169,769	85,981 <u>2,062</u>	171,059 <u>40,316</u>	
Richland	83,671	30,302	84,307 <u>15,500</u>	30,533 <u>26,650</u>	
Roosevelt	71,090	60,329	71,630 <u>96,278</u>	60,787 <u>61,038</u>	
Rosebud	359,662	286,411	362,395 <u>475,055</u>	288,588 <u>126,246</u>	
Sanders	203,863	127,694	205,413 <u>197,286</u>	128,665 <u>14,442</u>	
Sheridan	0	46,231	0	46,583 <u>47,628</u>	
Silver Bow	249,821	141,541	251,719 <u>193,304</u>	142,617 <u>119,358</u>	
Stillwater	91,487	75,926	92,182 <u>91,185</u>	76,503 <u>51,769</u>	
Sweet Grass	36,996	36,327	37,277 <u>24,214</u>	36,603 <u>12,316</u>	
Teton	57,760	41,547	58,199 <u>45,217</u>	41,863 <u>40,769</u>	
Toole	43,323	51,399	43,652 <u>36,109</u>	51,790 <u>73,362</u>	
Treasure	0	18,947	0	19,091 <u>16,243</u>	
Valley	15,824	90,532	15,944 <u>10,558</u>	91,220 <u>143,204</u>	
Wheatland	20,946	12,103	21,105 <u>15,031</u>	12,195 <u>12,109</u>	
Wibaux	0	14,585	0 <u>14,696</u>	25,103	
Yellowstone	1,125,488	643,136	1,134,042 <u>1,070,887</u>	648,024 <u>612,203</u>	
Total	6,269,374	4,650,865	6,317,022 <u>6,139,506</u>	4,686,212 <u>3,723,973</u>	

(2) The average amount of the block grants in fiscal years 2002 and 2003 must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year. ""

Renumber: subsequent sections

14. Page 11.

Following: line 21

Insert: "NEW SECTION. Section 15. Restrictions on retirement fund for fiscal year 2004. (1) For school fiscal year 2004, the amount that a school district or cooperative may charge to the retirement fund for the employer's contributions to the retirement, federal social security, and unemployment insurance systems for all employees whose salaries are paid from a federal funding source is limited to the amount that the district or cooperative charged to the retirement fund for those same purposes for the same group of employees in school fiscal year 2003.

(2) The restriction in subsection (1) does not apply to employees whose salaries are paid from the district's school food services fund."

Insert: "NEW SECTION. Section 16. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [section 1]."

Renumber: subsequent sections

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15. Page 11, line 23 through line 27.

Following: "(1)" on line 23

Strike: remainder of line 23 through "APPROVAL" on line 27

Insert: "[Section 1] is effective July 1, 2004, and applies to school budgets for the fiscal years beginning on or after July 1, 2005.

(2) [Section 2] is effective July 1, 2003, and applies to school budgets for the school fiscal year beginning July 1, 2003.

(3) [Section 3] is effective July 1, 2004, and applies to school budgets for the school fiscal years beginning on or after July 1, 2004.

(4) [Sections 4 through 6 and 8 through 13] are effective July 1, 2003.

(5) [Section 7] is effective July 1, 2004.

(6) [Sections 14, 15, 16, 18, 19, and this section] are effective on passage and approval"

16. Page 11.

Following: line 30

Insert: "NEW SECTION. Section 19. Termination. [Section 2] terminates June 30, 2004."

For the Senate:

Story, Chairman
F. Thomas
Nelson

For the House:

Andersen, Chairman
Jackson
Fritz (unsigned)

FREE CONFERENCE COMMITTEE
on **Senate Bill 485**
Report No. 1, April 26, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 485** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 485** (reference copy -- salmon) be amended as follows:

1. Page 2.

Following: line 30

Insert: "(ii) child care for low-income families;"

Renumber: subsequent subsections

2. Page 3, line 30.

Strike: "\$8,500,000"

Insert: "\$6,500,000"

3. Page 3.

Following: line 30

Insert: "(b) child care, \$2,000,000;"

Renumber: subsequent subsections

Explanation: This amendment adds child care funding as the second priority and appropriates \$2,000,000 million for

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child care by reducing \$2,000,000 from mental health services and prescription drugs.

For the Senate:

Cobb, Chairman
Stapleton
Stonington

For the House:

Brueggeman, Chairman
E. Clark
Franklin

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 1:30 p.m. this day. Motion carried.

Senate recessed at 12:07 p.m.

Senate reconvened at 1:50 p.m.

Roll call. All members present except Senators Nelson, Schmidt, Sprague, Zook and Keenan, excused. Quorum present.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 2:30 p.m. this day. Motion carried.

Senate recessed at 1:58 p.m.

Senate reconvened at 2:47 p.m.

Roll call. All members present except Senator Sprague, excused. Quorum present.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 2**
Report No. 1, April 26, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 2** (reference copy -- salmon) and recommend this Free Conference Committee report be amended.

And, recommend that **House Bill 2** (reference copy -- salmon) be amended by the House.

Please see attached.

For the House:

Lewis, Chairman
Pattison
Lindeen (unsigned)

For the Senate:

Zook, Chairman
Keenan
Nelson (unsigned)

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FREE CONFERENCE COMMITTEE
on House Bill 13
Report No. 2, April 26, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 13** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 13** (reference copy -- salmon) be amended as follows:

1. Page 2, line 25 through line 28.

Strike: subsection (d) in its entirety

Renumber: subsequent subsections

2. Page 2, line 30.

Strike: "45"

Insert: "25"

3. Page 3, line 2.

Strike: "(1)(G)"

Insert: "(1)(f)"

4. Page 3, line 7.

Following: "(2)"

Insert: "(2)"

5. Page 3, line 20 through line 23.

Strike: subsection (iii) in its entirety

Renumber: subsequent subsection

6. Page 3, line 27.

Strike: "2-18-315(3)"

Insert: "2-18-313(2)"

Strike: "(3)(A)(IV)"

Insert: "(3)(a)(iii)"

7. Page 9, line 24 through page 10, line 12.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

8. Page 10, line 19 through page 11, line 1.

Strike: line 19 on page 10 through line 1 on page 11 in their entirety

Insert:

"1	27,649	28,462	29,300	30,163	31,052	31,969
2	28,462	29,300	30,163	31,052	31,969	32,913
3	29,300	30,163	31,052	31,969	32,913	33,885
4	30,163	31,052	31,969	32,913	33,885	34,886
5	31,052	31,969	32,913	33,885	34,886	35,916

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6	31,969	32,913	33,885	34,886	35,916	36,979
7	32,913	33,885	34,886	35,916	36,979	38,072
8	33,885	34,886	35,916	36,979	38,072	39,199
9	34,886	35,916	36,979	38,072	39,199	40,360
10	35,916	36,979	38,072	39,199	40,360	41,555
11	36,979	38,072	39,199	40,360	41,555	42,786
12	38,072	39,199	40,360	41,555	42,786	44,052
13	39,199	40,360	41,555	42,786	44,052	45,359"

9. Page 13, line 2 through line 20.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

10. Page 13, line 26 through page 14, line 9.

Strike: line 26 on page 13 through line 9 on page 14 in their entirety

Insert: "B1 12.645
 B2 13.045
 B3 13.445
 B4 13.845
 B5 14.245
 B6 14.645
 B7 15.045
 B8 15.445
 B9 15.845
 B10 16.245
 B11 16.645
 B12 17.045
 B13 17.445
 B14 17.845"

11. Page 15, line 23 through line 27.

Strike: lines 23 through 27 in their entirety

Insert:

"Legislative Branch	24,969	6,399	110,035	28,200
Consumer Counsel		1,277		5,462
Judicial Branch	85,726	12,247	330,568	47,224
Executive Branch	1,042,381	1,926,519	4,474,666	8,248,297
University System	1,087,384	1,182,729	2,883,488	3,136,320"

12. Page 16, line 5 through page 22, line 18.

Strike: section 8 in its entirety

Renumber: subsequent section

For the House:

A. Olson, Chairman
Barrett
Kaufmann

For the Senate:

Zook, Chairman
Tash
Cooney

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MESSAGES FROM THE OTHER HOUSE

Governor's amendments to Senate bills **concurred in** and returned to the Senate: 4/26/2003

SB 270, introduced by Harrington

SB 370, introduced by Gebhardt

SB 381, introduced by Keenan

SB 406, introduced by McGee

SB 473, introduced by Elliott

Senate bills concurred in and returned to the Senate: 4/26/2003

SB 483, introduced by Keenan

SB 493, introduced by Keenan

Conference Committee Report No.1 adopted: 4/26/2003

HB 107, introduced by A. Olson

HB 363, introduced by R. Brown

HB 558, introduced by D. Brown

Free Conference Committee Report No.1 adopted: 4/26/2003

SB 461, introduced by Story

HB 247, introduced by Harris

SPECIAL ORDERS OF THE DAY

Term limited Senators DePratu, 1997-2003, Senator Glaser, 1977-2003, Senator Mahlum, 1997-2003, Senator McCarthy, 1997-2003, Senator McNutt, 1997-2003, Senator Nelson, 1995-2003, Senator Shea, 1997-2003, Senator Sprague, 1995-2003, Senator Taylor, 1997-2003 and Senator Thomas, 1997-2003, and retiring Senator Zook, gave brief talks and thanked the Senate for the fond memories and friendships they have gained through their years in the Montana Legislature.

Also honored for her years as Secretary of the Senate was Rosana Skelton, 1995-2003, who then acknowledged her staff and thanked them for their dedication and friendships.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Taylor in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 424 - Free Conference Committee Report No. 1 - Senator Story moved the Free Conference Committee report to **SB 424** be adopted. Motion carried as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Ryan, Schmidt, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 34

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, McCarthy, Pease, Roush, Shea, Squires, Tester, Toole, Tropila, Wheat.

Total 15

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 485 - Free Conference Committee Report No. 1 - Senator Cobb moved the Free Conference Committee report to **SB 485** be adopted. Motion carried unanimously.

HB 13 - Free Conference Committee Report No. 2 - Senator Tash moved the Free Conference Committee report to **HB 13** be adopted. Motion carried with Senators Hanson and Harrington voting nay.

HB 2 - Free Conference Committee Report No. 1 - Senator Zook moved the Free Conference Committee report to **HB 2** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

Senator Thomas moved the committee rise, report and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Taylor moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Thomas moved the Senate stand at ease until the hour of 5:45 p.m. this day. Motion carried. Senate resumed at 5:53 p.m..

Roll call. All members present except Senator Sprague, excused. Quorum present.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 424, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Ryan, Schmidt, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 33

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, McCarthy, Pease, Roush, Shea, Squires, Tester, Toole, Tropila, Wheat.

Total 16

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 2, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Paired: Sprague, Aye; Bohlinger, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 13, as amended by the Free Conference Committee Report No. 2, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.

Total 45

Nays: Cocchiarella, Ellingson, Harrington, Wheat.

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Total 4

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 485, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Cooney, Elliott, Toole.

Total 3

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

MOTIONS

HB 2 - Senator Kitzenberg moved he be allowed to change his vote on **HB 2**, third reading this day, from yea to nay. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Tester thanked the Senate staff, the Majority Leader, President and both caucuses for their fine work through a difficult session.

Majority Leader Thomas thanked the retiring Senators, Committee Chairmen and all the staff for their good work through the session. He also thanked President Keenan for his excellent leadership, and presented token gifts to various members.

MOTIONS

Majority Leader Thomas moved the President be authorized to appoint a committee of two to notify the Governor that the Senate of the 58th Legislative session is ready to adjourn sine die. Motion carried unanimously.

The President appointed Senators Mahlum, chair, and Senator Shea.

Majority Leader Thomas moved the President be authorized to appoint a committee of two to notify the House of Representatives that the Senate of the 58th Legislative session is ready to adjourn sine die. Motion carried unanimously.

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The President appointed Senator Grimes, chair, and Senator Pease.

Majority Leader Thomas moved the President be authorized to appoint a committee of two to notify the Chief Justice and Justices of the Montana Supreme Court that the Senate of the 58th Legislative session is ready to adjourn sine die. Motion carried.

The President appointed Senator Nelson, chair, and Senator Glaser.

The President dismissed the committees to perform their assigned duties.

Majority Leader Thomas moved the Senate stand at ease subject to the call of the Chair. Motion carried.

Sergeant-at-arms Cramer announced that a committee from the House of Representatives awaited entrance to the Senate Chamber. Representatives were admitted and reported that the House of Representatives had completed its business and was ready to adjourn sine die, and wished the Senate well.

The committee appointed to notify the Chief Justice and Justices of the Supreme Court reported that Chief Justice Gray thanked the Senate and wished them well, but please do not come back until January, 2005! The President discharged the committee.

The committee appointed to notify the Governor reported that the Governor said the Senate had done a great job during a difficult session, and thanked the body for their work, complimenting them for a job well done. The President discharged the committee.

The committee appointed to notify the House of Representatives reported that the House had been notified and they were also ready to adjourn sine die. The President discharged the committee.

Majority Leader Thomas moved the Senate adjourn sine die. Motion carried unanimously.

Senate adjourned sine die at 7:19 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate